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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1994

Addendum

GERMANY

[30 August 1994]

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Part One

INITIAL REPORT OF THE FEDERAL REPUBLIC OF GERMANY SUBMITTED IN ACCORDANCE WITH ARTICLE 44 OF THE CONVENTION ON THE RIGHTS OF THE CHILD

Introduction

1. Following the promulgation on 21 February 1992 of the law ratifying the Convention on the Rights of the Child of 20 November 1989 for the Federal Republic of Germany (Federal Law Gazette (BGB1)*, Part II, p. 121), the Federal Government deposited the instrument of ratification with the Secretary-General of the United Nations on 6 March 1992. The Convention thereupon entered into force for the Federal Republic of Germany on 5 April 1992 (see official notification of 10 July 1992 - Federal Law Gazette, Part II, p. 990).

2. Prior to the introduction of the draft of a law to ratify the Convention in the German Bundestag, the Federal Government had, in keeping with its standard practice and as required in order to avert potential breaches of obligations under international law mandated by an international treaty, examined whether it was necessary to amend national law prior to ratification of the Convention. The Federal Government came to the conclusion that amendment of national legal provisions was not required solely on the basis of the intended ratification of the Convention.

3. It detailed its justifications for this conclusion in the Memorandum to the Convention addressing the individual articles of the Convention. The Federal Government also underscored its view that German law was in conformity with the Convention by submitting an internationally valid declaration at the time it deposited the instrument of ratification. This declaration stated, inter alia:

> "The Federal Republic of Germany also declares that domestically the Convention does not apply directly. It establishes state obligations under international law that the Federal Republic of Germany fulfils in accordance with its national law, which conforms with the Convention."

(See annex II for the text of the notification.)

4. In the same declaration the Federal Government stated that it attaches great importance to the Convention. It has always stressed that the Convention provides impetus for domestic reforms in the areas of legislation and other measures. This is all the more true in light of the fact that article 3, paragraph 2, of the Convention imposes on the States parties the general obligation to ensure the child such protection and care as are necessary for his or her well-being and, to this end, to "take all appropriate legislative and administrative measures".

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* See annex I. List of abbreviations.

5. In so far as such measures planned for the current legislative period of the German Bundestag (1991 to 1994) have been undertaken or implemented, these are presented in Part Two of this report. Since legislation and other measures - especially in the area of the law of parent and child - contemplated or initiated in response to the Convention on the Rights of the Child have for the most part not yet been brought to conclusion, information pertaining to these will be furnished in the next report to be submitted in accordance with article 44, paragraph 1 (b), of the Convention. Within this framework, information will also be furnished concerning progress made since ratification of the Convention, implementation priorities, and specific individual objectives, taking special account of the areas of non-discrimination (art. 2 of the Convention), well-being of the child (art. 3), right to life, survival and development (art. 6) and respect for the views of the child (art. 12).

6. In keeping with more recent practice, the information to be furnished to the United Nations in the reports of the States parties within the framework of a general part pursuant to the "Consolidated guidelines for the initial part of the reports of States parties" will be compiled in a core report; this core report will be submitted separately.

7. In fulfilment of article 42 of the Convention, the Federal Government has undertaken to make the United Nations Convention on the Rights of the Child known to adults by issuing a brochure that contains the text of the Convention and accompanying explanatory material and is available to all interested citizens and institutions free of charge. In addition, a brochure adapted to a child's level of comprehension has been prepared both at the federal level and at the level of various Länder (federal states), the first of which was North Rhine-Westphalia. The present report, which has been compiled with the assistance of the Länder and organizations active in the area of policy on children, will likewise be made available to the public at large in the form of a brochure.

I. DEFINITION OF A CHILD

A. Terms and age limits

8. Within the meaning of the Convention, a child is any human being below the age of 18 years, unless, under the law applicable to the child, majority is attained earlier. This corresponds to the personal legal status of minority under the German legal system. Minors are all persons who have not yet attained the age of 18 (sect. 2 of the Civil Code (BGB)).

9. In the sphere of German criminal law, minors under the age of 14 are considered children; persons between 14 and 18 years of age are termed juveniles (sect. 176, subsect. 1, of the Criminal Code (StGB); sect. 1, subsect. 2, of the Youth Courts Act (JGG)).

10. The unborn child enjoys protection in the Federal Republic of Germany pursuant to a number of different legal provisions. To be sure, a person does not, as a matter of principle, have legal capacity until his or her birth (sect. 1 of the Civil Code). Pursuant to section 1923, subsection 2, of the Civil Code, however, a child who has not yet been born must be considered to

be a potential heir if he or she is born alive and had already been conceived at the time of the death of the person to whose estate he or she is to succeed; within the framework of section 823, subsection 1, of the Civil Code he or she is protected prior to birth against injury inflicted by tortious acts. Pursuant to section 844, subsection 2, of the Civil Code he or she has the right to claim damages in the event that the person obligated to provide his or her maintenance is killed and can furthermore be the beneficiary of contracts for the benefit of third parties or with protective effect for the benefit of third parties. A curator may be appointed for the child even prior to birth to exercise his or her future rights (sect. 1912 of the Civil Code). The Federal Constitutional Court has already emphasized a number of times - most recently in its decision of 28 May 1993 - that the Basic Law (GG), the Constitution of the Federal Republic of Germany, obligates the State to protect human life, including unborn life, that this duty to protect has its foundation in article 1, paragraph (1), of the Basic Law, and that the subject and extent of this duty is specified in greater detail in article 2, paragraph (2), of the Basic Law. In the Federal Republic of Germany, the necessity of "appropriate legal protection before ... birth" (para. 9 of the Preamble to the Convention) is thus acknowledged.

B. Rights of the child

11. In speaking of the "rights of the child" the Convention does not in each case mean rights in the sense that the child could autonomously make a disposition of his or her own free will or that he or she could invariably enforce these rights by legal action through a representative. One immediate obstacle to such action would be the fact that many of the rights of the child anchored in the Convention, due to their vagueness, do not make suitable individual claims enforceable by legal action and thus cannot be understood as such. To this extent the language of the Convention follows the language of article 24 of the International Covenant on Civil and Political Rights; according to the latter, every child has a "right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State". The present Convention, which makes express reference hereto in paragraph 8 of its Preamble, stipulates what is essentially meant by such necessary measures of protection. The term "right" is used to describe the relationship of the child to these measures of protection because they serve the well-being of the child and he or she is therefore entitled to them. It is thus left up to national law to determine to what extent the measures of protection to be taken pursuant to the Convention to ensure the well-being of the child should be enforceable by action brought before a court by the child or by his or her legal representative.

12. The relationship of the "rights of the child" as defined in the Convention to the rights of parents mentioned in its article 5, by the way, also corresponds to the relationship between the rights of the child and the rights of parents under German national law. In article 5 it is simply taken for granted that children and juveniles are subject to restrictions in the exercise of their rights, restrictions arising from the right of care and custody enjoyed by their parents or other persons legally responsible for them. The rights of persons having parental custody, however, are not comprehensively defined therein. Although the latter circumstance is

obviously linked to the fact that a convention on the rights of the child is not the suitable framework for defining and guaranteeing the rights of parents, the Federal Government, for purposes of clarification, submitted a declaration to this effect at the time the instrument of ratification was deposited.

13. In conclusion, the rights and obligations of children and juveniles by age group are summarized in the following, whereby - in conformity with the Convention - it must be noted that the exercise of rights in this context is generally subject to the consent of the parents or other persons having parental powers.

(a) At the time of birth:

(i) Begins the capacity to be a subject of legal rights and duties;

(ii) Begins the capacity to be a party to legal proceedings;

(iii) Begins the curatorship or guardianship of the Youth Welfare Office under certain conditions in the case of children born out of wedlock;

(b) At the age of three a child may be allowed to take part in musical performances and similar events and in the rehearsals connected therewith for up to two hours per day;

(c) At the age of five a change in the family name requires the consent of the child, whereby prior to the child's fourteenth birthday such consent is given by his or her legal representative;

(d) At the age of six:

(i) Children are required to attend school (the cut-off date is always the first day of June). The obligation to attend full-time schools continues for 9 or, respectively, 10 years (education acts or, respectively, compulsory education acts of the Länder);

(ii) A child may be allowed to take part in theatre performances for up to four hours per day and in musical performances or similar events for up to three hours per day;

(iii) A child may be allowed to attend public film showings, provided the film is released for this age group;

(e) At the age of seven:

(i) A child has limited capacity to enter into legal transactions;

(ii) A child has limited (legal) responsibility for tortious acts;

(iii) A child has limited capacity to sue and be sued;

(iv) A child has certain rights of participation under family law; these, however, are exercised by his or her legal representative;

(f) At the age of 10 a child must be heard prior to a change in religious denomination; the same applies to the withdrawal of the child from religious instruction in the event that the parents themselves are in disagreement;

(g) At the age of 12:

(i) A child can no longer be forced to take religious instruction in another denomination against his or her will;

(ii) A child may be allowed to attend public film showings, provided the film is released for this age group;

(h) At the age of 13 a child may work in agricultural operations for up to three hours per day; he or she may assist at sporting events and deliver newspapers for up to two hours per day;

(i) At the age of 14:

(i) Begins the "juvenile" phase within the meaning of numerous laws; only under family law does the term "child" continue to apply;

(ii) Begins limited criminal responsibility;

(iii) A juvenile has the right to freely choose his or her religious denomination (exception: in the Land Bavaria, a juvenile may not withdraw from religious instruction in school until he or she attains the age of 18);

(iv) A child has certain rights of participation under family law (objection of a ward to the appointment of a guardian, for instance) that are exercised by the child personally and not by his or her legal representative. Other rights of participation (consent to adoption, consent to the acknowledgment of paternity by his or her father, consent to a change in name, for instance) can only be exercised by the child personally; consent of his or her legal representative hereto, however, is required;

(j) At the age of 15:

(i) Ends the period of compulsory schooling in most of the Länder (education acts or, respectively, compulsory education acts of the Länder);

(ii) Employment of a juvenile is generally permitted from the standpoint of statutory protection of labour; there are still exceptions, however;

(k) At the age of 16:

(i) A juvenile can, upon application, be granted permission to marry;

(ii) A juvenile may frequent eating and drinking establishments as well as public dances until 12.00 midnight unaccompanied by a person having parental powers;

(iii) Alcoholic beverages except for spirits may be sold to a juvenile;

(iv) A juvenile may be allowed to attend public film showings, provided the film is released for this age group;

(v) A juvenile is obligated to possess an identity card;

(vi) A juvenile is competent to execute a will before a notary;

(vii) A juvenile is competent to swear an oath before a court.

II. GENERAL PRINCIPLES

14. The general principles that are stipulated in articles 2, 3 and 6 of the Convention and are binding on the States parties, namely the principles of non-discrimination (art. 2), the well-being of the child (art. 3) and the right to life, survival and development (art. 6), must be guaranteed by legislative, judicial, administrative and other measures which are either already in effect or contemplated. As can be seen from the following, these principles are also embodied in German national law. They have likewise been incorporated and observed in those measures which have been concluded or initiated since the Convention took effect in the Federal Republic of Germany (see pertinent remarks in Part Two of this report). The same is true in regard to respect for the views of the child (art. 12).

A. Non-discrimination (art. 2)

15. From the standpoint of content, article 2, paragraph 1, of the Convention corresponds to article 2, paragraph 1, of the International Covenant on Civil and Political Rights and article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights; in the national law of the Federal Republic of Germany, it furthermore corresponds to the constitutionally guaranteed basic right to equality of treatment laid down in article 3 of the Basic Law. This basic right at the same time also ensures that in the Federal Republic of Germany the measures to be taken by the States parties pursuant to article 2, paragraph 2, of the Convention fulfil the requirements of paragraph 1. Irrespective of current deliberations on the subject of altering the position of the child born out of wedlock under family and inheritance law to conform to that of a child born in wedlock, the Federal Government,

in view of the disparities in this regard under national law at the time of ratification, submitted a clarifying declaration when the instrument of ratification was deposited. German national law is in line with article 2, paragraph 2, which prohibits discrimination against or punishment of a child on the basis of certain activities of the child's parents or other third parties.

B. Well-being of the child (art. 3)

16. Article 3, paragraph 1, of the Convention stipulates that the best interests of the child shall be the primary consideration when interpreting and implementing the Convention. This general rule, however - as became clear during the discussion of the draft texts - does not rule out the possibility that cases may arise in which the interests of other parties involved must be accorded equal or even priority consideration, for instance the interests of the mother in the event of a medical emergency during childbirth (see United Nations doc. E/CN.4/L.1560/Add.14 of 11 March 1981, pp. 5-7). When regulating the criminality of abortion, a State party is therefore not prevented by article 3, paragraph 1, from holding the interests of the mother worthy of protection and according them the degree of consideration it deems appropriate.

17. In the Federal Republic of Germany, the subsidiarity of State action to ensure the well-being of the child that is expressed especially in article 3, paragraph 2, arises out of the constitutional guarantee of the rights of parents (art. 6, para. (2), sentence 1, of the Basic Law). It not only follows herefrom that State measures of protection and care designed to serve the best interests of the child must take due consideration of the rights and duties of his or her parents, as article 3, paragraph 2, of the Convention stipulates. What is more, it is expressly acknowledged under national law that the care and upbringing of children is a natural right of parents and a duty primarily incumbent on them, whereby the community is responsible for ensuring that they perform this duty. This national guarantee of protection fulfils the intent and purpose of article 3, paragraph 2, of the Convention. In the Federal Republic of Germany, statutory guarantees for the care to be ensured pursuant to article 3, paragraph 2, of the Convention are embodied in section 1 of the Child and Youth Services Act (KJHG) and in provisions governing monetary benefits accruing to children (child benefit, child-raising benefit and advance maintenance payments). These fulfil the demand of article 3, paragraph 2, of the Convention for measures necessary to ensure the well-being of children and to create positive living conditions for them. Programmatic initiatives for an across-the-board policy on children build on these existing instruments, as the Child Commissioner for the Land North Rhine-Westphalia has pointed out. These endeavours will be pursued both in the area of legislation and in the area of social welfare in accordance with current needs and available financial resources.

18. The national legal system of the Federal Republic of Germany, which is bound by the rule of law as defined in the Basic Law, also satisfies the demands of article 3, paragraph 3. The national standards of the Federal Republic of Germany established to ensure the care and protection of the child

must be actually enforced by the institutions, services and facilities responsible in this area; the same also holds true in respect of the number and suitability of their staff and the existence of "competent" supervision.

C. Right to life, survival and development (art. 6)

19. The duty of the States parties stipulated in article 6, paragraph 1, of the Convention, namely to recognize "that every child has the inherent right to life", already follows from the recognized basic right of every human being to life which is laid down in article 6, paragraph 1, of the International Covenant on Civil and Political Rights. In Germany, this right is protected as a basic right in article 2, paragraph (2), sentence 1, of the Basic Law. In article 6, paragraph 2, the Convention leaves it to the discretion of the States parties to determine what conclusions shall be drawn herefrom. Pursuant to paragraph 2, the States parties must ensure "to the maximum extent possible the survival and (healthy) development of the child". This directive does not say what specific measures must be taken to achieve this goal. However, article 6, paragraph 2, is given concrete form by the obligations assumed under article 24. Specific mention should especially be made in this context of the obligation to take measures to diminish infant and child mortality as well as preventive measures serving to maintain a state of good health and combat and heal childhood disease; see article 24, paragraph 2 (a) through (e) of the Convention.

D. Respect for the views of the child (art. 12)

20. In contrast to article 13, paragraph 1, of the Convention, which assures the child the right to freedom of expression in all matters, irrespective of whether the child is already capable of forming his or her own views (see in this context, para. 29 below), article 12 only assures the child the opportunity to be heard in all matters affecting the child (para. 1) as well as in any judicial or administrative proceedings affecting the child (para. 2); the right of the child to express his or her views that is laid down in article 12, paragraph 1, is intended to apply only to those children who are capable of forming their own views. The States parties are thus given some leeway to decide in which cases and to what extent they shall take the views of the child into consideration. In respect of German law, particular reference should be made in this context to section 1671 of the Civil Code, which sets the standards for determining in a divorce case (sect. 1672, sentence 1, applies similarly in cases involving a not merely temporary separation of the parents) which parent shall be granted parental custody of a common child. As a matter of principle, the court is bound by a proposal mutually agreed between the parents; it may only deviate from this proposal "if this is necessary for the well-being of the child" (sect. 1671, subsect. 3, sentence 1, of the Civil Code). If, however, the child in question has attained the age of 14 and makes a different proposal, the court decides - without being bound by the parents' proposal - which arrangement best serves the interests of the child, whereby it also and especially takes into consideration the child's relationship with his or her parents and siblings (sect. 1671, subsect. 3, sentences 2 and 3, of the Civil Code). Beyond the realm of existing statutory provisions, various forms of participation by children in the shaping of social framework conditions are currently being tested. Examples worthy of mention include children's

parliaments, children's office hours of the administrative authorities and children's advisory boards for specific projects. In respect of the Land North Rhine-Westphalia, it should be pointed out that specialized bodies representing the interests of children have meanwhile been established on a voluntary basis in 23 municipalities and by 5 voluntary youth service organizations (child commissioners, special advisers for children's issues, children's offices).

21. Pursuant to article 12, paragraph 2, of the Convention, the question of whether the child is to be heard directly or through a representative in judicial or administrative proceedings affecting the child is to be decided according to the provisions of national law. The law of the Federal Republic of Germany - in section 50b of the Non-Contentious Legal Proceedings Act (FGG), for instance - provides for the child to be personally heard. If the child is a party or a participant in judicial or administrative proceedings, he or she may express his or her views through a legal representative (see, for example, sect. 51 of the Code of Civil Procedure (ZPO)). Pursuant to section 8, subsection 1, of Book Eight of the Social Code (SGB) - Child and Youth Services (Federal Law Gazette 1990, Part I, p. 1163) as contained in the notification of 3 May 1993 (Federal Law Gazette, Part I, p. 637), children and juveniles are to be involved - in accordance with their maturity - in all decisions of the statutory youth services concerning them. They are to be suitably informed of their rights in administrative proceedings and in proceedings before the guardianship court.

III. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7)

22. The right of the child to be registered immediately after his or her birth, which is derived from article 7, paragraph 1, of the Convention, was likewise provided for in article 24, paragraph 2, of the International Covenant on Civil and Political Rights. In the Federal Republic of Germany, this duty is incumbent upon the registry offices pursuant to the Civil Status Act (PStG). The birth of a child must be registered within one week with the registrar of births, deaths and marriages for the district in which the child was born (sect. 16 of the Civil Status Act). If the child is born in a public hospital, a public maternity home or a similar public institution, responsibility for registering the birth lies exclusively with the head of the facility or with the civil servant or employee specifically authorized to undertake such registration (sect. 18, subsect. 1, of the Civil Status Act). The persons obligated to register the birth in other cases are stipulated in sections 17 et seq. of the Civil Status Act. Failure to comply with this duty to register can be punished by imposition of a fine (sect. 68 of the Civil Status Act).

23. The additional right of the chid provided for in article 7, paragraph 1, namely the right "from birth" to a name, is ensured in the Federal Republic of Germany as a general rule by the fact that the first names and family name of the child must be stated at the time his or her birth is registered (sect. 21, No. 4, of the Civil Status Act). If the person registering the birth is unable to state the first names of the child, these must be registered within a period of one month (sect. 22 of the Civil Status Act). Pursuant to

section 21 of the Civil Status Act, the guardianship court shall intervene if the parents of a child born in wedlock who do not use a common family name fail to state a family name for the child within a period of one month. If necessary - in the case of foundlings and children whose civil status cannot be determined - the first names and family name of the child shall be stipulated by authorities ex officio (sects. 25 and 26 of the Civil Status Act). The family name of the child otherwise follows from the provisions of the Civil Code (sects. 1616 to 1618, 1720, 1737, 1740f, 1757 and 1765).

24. On 1 April 1994 a new law on family names entered into force. Pursuant to this new law, children born in wedlock receive their parents' married name (sect. 1616, subsect. 1, of the Civil Code). If the parents do not use a married name they may designate either the father's surname or the mother's surname as the child's surname (sect. 1616, subsect. 2, of the Civil Code). If the parents fail to designate a surname for the child within one month of his or her birth, the guardianship court assigns the right to designate the surname to one of the parents. The guardianship court may set a time-limit for the exercise of this right of designation. If the right of designation is not exercised by expiry of the time-limit, the child receives the name of that parent to whom the right of designation was assigned (sect. 1616, subsect. 3, of the Civil Code). Children born out of wedlock receive the family name used by the mother at the time of the child's birth (sect. 1617, subsect. 1, of the Civil Code).

25. Article 7, paragraph 1, of the Convention furthermore gives the child the right to acquire a nationality. In respect of this provision, the Federal Republic of Germany - like the other States parties to the Convention - can only adopt regulations governing the acquisition of its own nationality. German nationality is acquired by a child at birth if at least one parent possesses German citizenship at the time the child is born. If at the time a child is born out of wedlock only the father is a German national, assertion of a claim for acquisition of German nationality requires a determination of paternity effective under German law; the proceedings for determination of paternity must be instituted before the child attains the age of 23. A child of non-German parents who is born in the Federal Republic of Germany has no nationality unless he or she acquires a foreign nationality at birth pursuant to foreign statutory provisions. The same applies if such a child is born on board a ship or an aircraft that is entitled to fly the federal flag or, respectively, to bear the nationality mark of the Federal Republic of Germany. To ensure implementation of the child's entitlement to acquisition of a nationality in such cases as well, article 2 of the Act on the Reduction of Statelessness of 29 June 1977 (Federal Law Gazette, Part I, p. 1101) stipulates that the child is to be naturalized upon request. However, this only applies under the condition that the child has legally had his or her permanent place of residence in the Federal Republic of Germany for the preceding five years and that he or she files the application of naturalization prior to attaining the age of 21. In addition, the entitlement to naturalization is excluded if the applicant has been sentenced by a court to a term of imprisonment or juvenile sentence of five years or more. These restrictions are provided for in the Convention on the Reduction of Statelessness of 30 August 1961, which was ratified by the Federal Republic of Germany (Federal Law Gazette 1977, Part II, p. 597), and are therefore "in accordance" with article 7, paragraph 2, of the present Convention.

26. Finally, article 7, paragraph 1, gives the child the right "to know and be cared for by his or her parents" - in so far as this is possible. If the child grows up with his or her parents and thus within his or her family, as is desirable (see paras. 5 and 6 of the Preamble to the Convention), implementation of this right of the child is ensured as a matter of course and there is no need for any special statutory or administrative measures under national law. Care of the child within the family is constitutionally safeguarded by the guarantee of the rights of parents (art. 6, para. (2), sentence 1, of the Basic Law). Implementation of the child's right to be cared for by his or her own parents can be thwarted by actual circumstances (because one or both parents have died, for example). It can also be impossible for legal reasons, for instance if the child in his or her best interests cannot be allowed to remain in his or her family environment (art. 20, para. 1, of the Convention) and if the child requires "alternative care" (art. 20, para. 2). In such cases, the provisions of national law in the Federal Republic of Germany - in conformity with the Convention (art. 20, para. 3) - afford the child the options of foster placement, adoption or placement in a suitable institution for the care of children. In such cases the child's right to be cared for by his or her own parents stipulated in article 7, paragraph 1, of the Convention is forfeited ipso jure. Pursuant to section 61 of the Civil Status Act, by the way, once a child has attained the age of 16 he or she can personally inspect the civil status registers and thus obtain knowledge of the identity of his or her parents.

27. In conformity with article 7, paragraph 2, of the Convention, the legal system of the Federal Republic of Germany largely guarantees the rights stipulated in article 7, paragraph 1 - irrespective of the fact that article 7 merely lays down obligations of the States parties to ensure conformity of their national laws with the Convention. Only loophole-free acquisition of German nationality is not unconditionally guaranteed under national law, since the German law of nationality is not based on the jus sol principle, or under relevant international instruments within the meaning of article 7, paragraph 2.

B. Preservation of identity (art. 8)

28. The law of the Federal Republic of Germany fulfils the requirements of article 8 of the Convention, pursuant to which the States parties are obligated to respect the right of the child to protection of his or her "identity" through the provisions of civil law pertinent to the status of the child. Furthermore, protection of identity is especially ensured through section 169 of the Criminal Code, which stipulates that anyone who foists a child upon another person or conceals or falsely states the child's civil status to the authority responsible for keeping the civil status registries or ascertaining civil status shall be threatened with a penalty. In such cases German law also makes appropriate provision for speedily re-establishing the concealed civil status ("the identity of the child"), action which article 8, paragraph 2, obligates the States parties to undertake in cases where the child civil status is illegally concealed or falsely stated. Special reference is made in this connection to the provisions of the Civil Status Act pertaining to the correction of entries (sects. 46a, 46b and 47 of the Civil Status Act).

C. Freedom of expression (art. 13)

29. Article 13 of the Convention guarantees children the right to freedom of expression, which is supplemented by the obligation of parents laid down in article 5 to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance for the child. In the Federal Republic of Germany, which has already obligated itself under article 19, paragraphs 2 and 3, of the International Covenant on Civil and Political Rights to guarantee everyone the right to freedom of expression, this right is safeguarded in a manner consistent with the present Convention and aforementioned Covenant by the basic right of freedom of speech laid down in article 5 of the Basic Law.

D. Access to appropriate information (art. 17)

30. In the Federal Republic of Germany, the obligation arising under article 17 of the Convention - pursuant to which the production of children's programmes and the dissemination of children's books are to be especially encouraged and the other demands enumerated in subparagraphs (a) through (e) are to be implemented - is fulfilled in a manner appropriate to national circumstances, whereby it must be added that State interference with and intervention in the areas protected by freedom of the press and freedom of broadcasting are ruled out as a matter of principle.

31. Numerous programmes for children and young people are produced by the mass media in the Federal Republic of Germany, and numerous books and magazines suitable for children and young people are available. The child has "access" to this material here in accordance with the spirit of article 17. A right of the child to television reception or to the information contained in printed matter, by contrast, follows from article 13, paragraph 1, of the Convention, whereby it can concurrently be inferred from article 5 that children can and may only exercise this right to the extent that their parents, in performance of their child-rearing responsibilities, permit them to do so. The demand for development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being (art. 17 (e)) is accorded due consideration in the Federal Republic of Germany, especially through the prohibition under criminal law of certain representations of violence (sect. 131 of the Criminal Court) and pornographic materials (sect. 184 of the Criminal Court), through the Act on the Dissemination of Publications Harmful to Young Persons, through inspection of films and videos, and through area-specific prohibitive provisions and provisions for the protection of young persons contained in the Inter-state Agreement on the Restructuring of Broadcasting. Section 14 of Book Eight of the Social Code - Child and Youth Services - obligates the statutory youth services to offer young people and persons having parental powers the opportunity to participate in programmes of educational measures for the protection of children and young persons.

E. Freedom of thought, conscience and religion (art. 14)

32. For the Federal Republic of Germany, the right of the child to freedom of thought, conscience and religion that is laid down in article 14 of the Convention essentially confirms the general right of all human beings to

freedom of thought, conscience and religion that is guaranteed in article 18 of the International Covenant on Civil and Political Rights and is thus already binding here. In so far as the delimitation of the rights of parents and children is concerned, from the standpoint of both agreements the following applies: as long as the child is unable to form an opinion of his or her own concerning the subject of religion, the parents (or other persons having the right of care and custody of the child) shall take decisions pertaining to the religious education of the child in conformity with their own convictions (art. 18, para. 4, of the International Covenant on Civil and Political Rights). In the case of older children who are capable of forming a religious opinion of their own, parents and other persons having the right of care and custody of the children must respect this opinion (art. 14, para. 2, of the present Convention).

33. In the Federal Republic of Germany, the problem was resolved under national law in the following manner by the Act on the Religious Education of Children (RelKErzG) of 15 July 1921 (Reich Law Gazette (RGBl), p. 939): Upon attaining the age of 12, a child can no longer be forced against his or her will to take religious instruction in a denomination different from his or her previous denomination; upon attaining the age of 14, the child may personally decide which religious or ideological creed he or she wishes to embrace. Under German law, by the way, freedom of faith and of conscience is safeguarded as a basic right by article 4 of the Basic Law. This complies with the requirements of article 14 of the Convention. The Act on the Religious Education of Children will therefore continue to be applicable without restriction in the future as well.

F. Right to freedom of association and freedom of peaceful assembly (art. 15)

34. Article 15 of the Convention ensures the right of the child to freedom of association and freedom of assembly. It thus confirms once again for children the corresponding right of every human being to freedom of association and freedom of assembly which is laid down in articles 21 and 22 of the International Covenant on Civil and Political Rights and is consequently already guaranteed in the Federal Republic of Germany. Under German law, the requirements of article 15 of the Convention are above all fulfilled by the basic rights - enjoyed by Germans - of freedom of assembly and freedom of association (arts. 8 and 9 of the Basic Law). Aliens are entitled to similar rights subject to the provisions of the Law Concerning Processions and Assemblies (VersammlG) and the Law Relating to Associations (VereinsG).

G. Protection of privacy (art. 16)

35. Article 16 of the Convention once again confirms for children the right to privacy that is laid down as a basic human right for everyone in article 17 of the International Covenant on Civil and Political Rights and is thus already ensured in the Federal Republic of Germany. The requirements of article 16 - like those of article 17 of the Covenant - are fulfilled under the national law of the Federal Republic of Germany by various constitutional guarantees. It can, for instance, be inferred from article 1 in conjunction with article 2, paragraph (2), of the Basic Law that every human being is entitled to an autonomous private sphere, as the Federal Constitutional Court has expressly confirmed (Decisions of the Federal Constitutional Court

(BVerfGE), vol. 35, pp. 202 seq., p. 220; consistent practice). The family enjoys special protection pursuant to article 6, paragraph (1), of the Basic Law. In regard to protection of the home, correspondence and honour, particular reference is made to article 13 and article 10, paragraph (1), of the Basic Law as well as to sections 201 to 203, 354, 123, 124 and 185 seq. of the Criminal Code.

H. Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

36. The prohibition stipulated in article 37 (a), sentence 1, of the United Nations Convention on the Rights of the Child, namely that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment, corresponds to the guarantee laid down as a basic human right in article 7 of the International Covenant on Civil and Political Rights. It likewise corresponds to the guarantees laid down in the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 and in the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 26 November 1987. Article 37 (a), sentence 2, of the present Convention repeats the prohibition of imposition of capital punishment for offences committed by persons under 18 years of age; this corresponds to the guarantee laid down in article 6, paragraph 5, of the Covenant. In its guarantees, the present Convention goes beyond the Covenant in so far as in article 37 (a), sentence 2, provision is also made for prohibiting the imposition of life imprisonment without the possibility of earlier release for offences committed by persons under 18 years of age. The Federal Republic of Germany fulfils these obligations through its system for execution of sentences and execution of sentences passed by youth courts, which is structured according to the rule of law, as well as through the provisions of section 18, subsection 1, of the Youth Courts Act, which limits prison sentences for juvenile offenders to a maximum of 10 years. The Basic Law abolished capital punishment. In addition, Germany has ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights as well as Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty.

IV. FAMILY ENVIRONMENT AND ALTERNATIVE MEANS OF CARE

A. Parental guidance (art. 5)

37. Article 5 of the Convention makes it clear that the rights of the child guaranteed therein are not in conflict with the responsibilities, rights and duties of parents and other persons legally responsible for the child to "provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance" for the child. It is thus also made clear that it is not one of the objectives of the Convention to seek to disengage minors from the responsibility for their upbringing incumbent on their parents or other persons acting in the latter's stead. The legal system of the Federal Republic of Germany, in conformity with the foregoing, ensures that parents can act on behalf of and in place of the child if the child, for lack of sufficient age and corresponding maturity, is logically unable to personally exercise his or her own rights and make his or her own decisions

(see sect. 104 seq. of the Civil Code). Pursuant to article 5 of the Convention, parents and other persons acting on behalf of the child can furthermore provide direction and guidance for the child "in a manner consistent with the evolving capacities of the child". This is ensured under German law by section 1626, subsection 2, of the Civil Code, which stipulates that in caring for and bringing up the child, parents must take due account of the evolving capability and evolving need of the child to act independently in a responsible manner; parents should discuss issues pertaining to parental custody with the child, to the extent his or her state of maturity permits, and should thereby strive to reach agreement with him or her. The standards laid down in article 5 thus correspond to those of the national law of the Federal Republic of Germany. In keeping with the general objective of the Convention, namely to limit the rights of children and juveniles by the rights of parents no more than necessary, German national law furthermore contains provisions stipulating that minors can, under certain circumstances - usually upon attaining an age below the age of majority - enter into certain legal transactions independently and with legal effect without the prior or subsequent consent of their parents. Such "limited majority", pursuant to which minors can be held equivalent to persons of full legal age in respect of certain legal transactions, is provided for in the aforementioned Act on the Religious Education of Children of 15 July 1921 (Reich Law Gazette, p. 939), for example, as well as in sections 113 and 2229 of the Civil Code (see also paras. 11-13 above).

B. Parental responsibilities (art. 18, paras. 1-2)

38. Article 18, paragraph 1, of the Convention confirms the principle that both parents are responsible for the upbringing and development of the child. This principle, which was also laid down in article 23, paragraph 4, of the International Covenant on Civil and Political Rights and in article 5 (b) of the Convention on the Elimination of All Forms of Discrimination against Women, dominates the national law of the Federal Republic of Germany as well. Article 6, paragraph (2), sentence 1, of the Basic Law guarantees the rights of parents with the following words: "The care and upbringing of children are a natural right of parents and a duty primarily incumbent on them." The Government of the Federal Republic of Germany firmly believes that the principle of joint responsibility of parents can only be upheld without restriction if the marriage is intact. In other cases - those involving divorce, permanent separation of spouses and birth of a child out of wedlock, for example - there must be the option, in keeping with article 3, paragraph 1, of the Convention, of making those arrangements, especially arrangements pertaining to custody and access, which best serve the interests of the child. This continues to be its position, irrespective of current preparations in the Federal Republic of Germany for revising the law on parental custody. The Federal Government furnished corresponding clarification in a declaration submitted at the time the instrument of ratification was deposited.

39. The obligations of the States parties stipulated in article 18, paragraph 2, namely to "ensure the development of institutions, facilities and services for the care of children", are fulfilled in the Federal Republic of Germany through Book Eight of the Social Code - Child and Youth Services. This law forms the basis in the Federal Republic of Germany for the existence

of youth welfare offices and numerous institutions, facilities and services concerned with the affairs of children and young persons which are maintained both by voluntary organizations and by the State. The law on child and youth services provides for a broad spectrum of general furtherance measures and benefits as well as individual forms of socio-educational assistance.

C. Separation from parents (art. 9)

40. The law of the Federal Republic of Germany ensures that a child will not be separated from his parents against his will, unless the competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the well-being of the child - if the child is abused or neglected by his or her parents, for instance, or if the parents are living separately and a decision must be made as to the child's place of residence (art. 9, para. 1, of the Convention). National law in Germany complies with these requirements especially through the opportunity afforded the guardianship court in sections 1666 and 1666a of the Civil Code to undertake the measures necessary for the protection of the child, including those "entailing a separation of the child from his or her parental family". Under national law, the conditions under which such action may be taken are considerably more narrowly defined than is required under the obligation stipulated in article 9, paragraph 1, sentence 1, of the Convention. In particular, it is not sufficient for application of Sections 1666 and 1666a of the Civil Code if separation of the child from his or her family environment "is necessary for the best interests of the child". Rather, according to section 1666, subsection 1, of the Civil Code it must also be established that the physical, intellectual or emotional well-being of the child is endangered by abusive exercise of parental custody, by neglect of the child, by failure on the part of the parents which is not due to their fault, or by the behaviour of a third party and, furthermore, that the parents are not willing or are not in a position to take the measures necessary to avert this danger. Moreover, even when these preconditions exist, separation of a child from his or her family can only then be undertaken "if the danger cannot be countered in another manner, not even through public assistance" (sect. 1666a, subsect. 1, of the Civil Code). It is thus made very clear under national law that separation of a child from his or her family, due to its particularly drastic character, can only be contemplated as a measure of last resort. Sections 1666 and 1666a of the Civil Code thus go beyond the requirements of article 9, paragraph 1, of the Convention. The comparatively more stringent preconditions for intervention serve to protect the child and his or her interest in not being separated from his or her family as long as no truly compelling grounds for such action exist; this legal situation in Germany therefore remains unaffected by article 41 (a) of the present Convention, since German law contains guarantees conducive to the well-being of the child that go beyond the minimum standards laid down in the Convention. German law also fulfils the requirement that the decision must be "subject to judicial review". According to sections 1666 and 1666a of the Civil Code, the decision is to be made by the guardianship court; pursuant to section 19 seq. of the Non-Contentious Legal Proceedings Act this decision can be appealed to the regional court.

41. The cases separately stipulated in article 9, paragraph 1, sentence 2 of the Convention in which the principle embodied in article 9, paragraph 1, sentence 1, is to be applied are encompassed under German law by sections 1671 and 1672 of the Civil Code. According to section 1671, at the time the parents are granted a divorce the family court shall decide which parent is entitled to parental custody of the common child. Following the declaration of the nullity of section 1671, subsection 4, sentence 1, of the Civil Code by the Federal Constitutional Court (Federal Law Gazette 1982, Part I, p. 1596), custody can, under certain circumstances, also be awarded to both parents, whereby the court should in any case make the decision that best serves the interests of the child (sect. 1671, subsect. 2, of the Civil Code). If the parents are living separately and not just temporarily, without being divorced, the court may, upon the application of one of the spouses, likewise determine that only one spouse is entitled to parental custody of the child (sect. 1672 in conjunction with sect. 1671 of the Civil Code). The court rules ex officio if the well-being of the child would otherwise be endangered and if the parents are not willing or are not in a position to avert such danger. In both cases, the decision means that the parent entitled to sole parental custody of the common child also has the right to determine the minor's place of residence (sect. 1631, subsect. 1, of the Civil Code).

42. The right to be heard which is stipulated in detail in article 9, paragraph 2, of the present Convention is already guaranteed in the same manner in article 6, paragraph 1, of the European Convention for the Protection of Human Rights and Fundamental Freedoms; under German law, it is guaranteed as a right equivalent to a basic right by article 103, paragraph 1, of the Basic Law. As regards proceedings concerning the care and custody of a child, moreover, this right is spelled out by the Non-Contentious Legal Proceedings Act in a manner fulfilling the requirements of the Convention: In such proceedings the court must give the parents the opportunity to be heard and, as a rule, in person; in the cases provided for in sections 1666 and 1666a of the Civil Code, moreover, the parents must always be heard in person in order to clarify with them how the danger to the well-being of the child can be averted (sect. 50a, subsect. 1, of the Non-Contentious Legal Proceedings Act). Children who have not yet attained the age of 14 are to be heard in person "if the affections, ties or wishes of the child are of significance for the decision or if it appears advisable, in the interests of determining the facts of the case, for the court to obtain a first-hand impression of the child"; a child who has attained the age of 14 and is not legally incapacitated must always be heard in such proceedings (sect. 50b, subsect. 1 and 2, of the Non-Contentious Legal Proceedings Act).

43. The obligation imposed on the States parties by article 9, paragraph 3, of the Convention, namely to respect the right of the child to maintain personal relations and direct contact with both parents on a regular basis, is fulfilled under German law by sections 1634 and 1711 of the Civil Code. In the case of children born in wedlock, section 1634 of the Civil Code stipulates that the parent who is not entitled to care and custody (for instance because he or she has been denied care and custody pursuant to sects. 1666 and 1666a, 1671 or 1672 of the Civil Code) shall retain "the authority to have personal access to the child", whereby the family court can define in greater detail the scope of this authority and exercise thereof, including exercise vis á vis third parties.

44. In conformity with the Convention, German national law provides for the possibility of an injunction to prevent access in an exceptional case if it can be positively established in that individual case that such access is contrary to the child's best interests. In the case of children born out of wedlock, the person entitled to the care and custody of the child - the mother, as a general rule - can determine the extent to which the child is to have contact with his or her father (sect. 1711, subsect. 1, sentence 1, of the Civil Code). If personal access to the father serves the well-being of the child, the guardianship court can rule that the father is entitled to the authority to have personal access to the child (sect. 1711, subsect. 2, sentence 1, of the Civil Code). Irrespective of any review of the law of parent and child initiated by the Federal Government, the provisions of national law governing the position of children born out of wedlock under family and inheritance law will remain unaffected by the provisions of the Convention. The Federal Government submitted a clarifying declaration in respect of this issue at the time the instrument of ratification was deposited.

45. The legal situation in Germany ensures that cases of the kind addressed in article 9, paragraph 4, of the Convention cannot arise. Pursuant to article 104, paragraph (4), of the Basic Law, a relative or someone enjoying the confidence of the detainee shall be notified of any judicial ruling imposing or ordering the continuation of detention. Section 114b, subsection 1, of the Code of Criminal Procedure (StPO) accordingly stipulates that a relative or someone enjoying the confidence of the person arrested shall be notified without delay of the arrest and of any further decision concerning the continuation of detention and, namely, by order of the competent judge. Furthermore, the individual arrested shall personally be given the opportunity to notify a relative or a person enjoying his or her confidence, provided this does not jeopardize the aim of the investigation (sect. 114b, subsect. 2, of the Code of Criminal Procedure). These provisions ensure that the information prescribed in article 9, paragraph 4, of the Convention is furnished, in so far as implementation of this provision of the Convention ever proves to be of practical consequence in the Federal Republic of Germany. Should there ever prove to be a need in an isolated case for provision of information of the kind addressed in paragraph 4, it can be assumed that the German authorities concerned would furnish such information without being formally obligated to do so by national statutory provisions.

D. Family reunification (art. 10)

46. In the opinion of the Federal Republic of Germany there is a particular need for the provisions stipulated in article 10 of the Convention concerning reunification of parents and children across national frontiers. The Federal Republic of Germany confirms the consensus expressed in article 10 that the Convention serves to reaffirm existing pertinent international and national guarantees. Moreover, it is up to each State to decide whether and subject to what restrictions it will allow aliens to enter and reside in its own country. Within the framework of the present Convention, such decisions should therefore be governed by national law, whereby due consideration should also be given to the aspect of the desirability of dealing with family reunification matters in a positive, humane and expeditious manner.

47. The new law on aliens regulates family reunification of aliens on a statutory and nationally uniform basis for the very first time. According to the procedure stipulated therein, the parent living in Germany must personally possess a residence permit, be able to support the arriving family members from his or her personal earnings, personal assets or other personal resources, and have access to living space sufficient to accommodate his or her family. The right of residence of an alien who enters the country to join a family member or who is born within the territory of the Federal Republic of Germany following such family reunification is initially contingent on the right of residence of the alien already living here. Under certain conditions, the family member who subsequently enters the country or is subsequently born here may receive a personal right of residence (sects. 17, 20 and 21 of the Aliens Act). In respect of minors, section 16 of the Aliens Act provides for a "right to return".

48. In addition, section 85 of the Aliens Act contains the first regulations governing an entitlement to naturalization. If a minor has attended a school within the federal territory for six years, and if he or she has attended a general education school for at least four of those years, he or she will, under certain circumstances, later acquire an entitlement to naturalization.

49. The requirements of article 10, paragraph 1, sentence 2, of the Convention, pursuant to which the States parties must ensure that submission of an application for the purpose of family reunification does not in itself entail any adverse consequences for the applicant, are fulfilled by German national law. Aside from the fact that such an application can ultimately prove to be unsuccessful, no adverse consequences of any kind are entailed in the submission of the application as such under national law.

50. The principle laid down in article 10, paragraph 2, of the Convention, namely that children whose parents reside in different States shall have the right to maintain personal relations and direct contacts with both parents, can - in contrast to family reunification (para. 1) - be upheld if children and (or) parents regularly visit one another in the respective other country as tourists. In these cases as well, it can be assumed for national law that decisions concerning the issue of residence permits for such visits will be governed by national law in compliance with the aforementioned article 12 of the International Covenant on Civil and Political Rights. At the time the report on the second reading of the draft convention was adopted by the Working Group on 23 February 1989, the Federal Republic of Germany requested that the following declaration in this regard be included in the minutes, and it confirmed this declaration when the instrument of ratification was deposited:

> "Nothing in the Convention on the Rights of the Child may be interpreted as implying that unlawful entry by an alien into the territory of the Federal Republic of Germany or his unlawful stay there is permitted; nor may any provision be interpreted to mean that it restricts the right of the Federal Republic of Germany to pass laws and regulations concerning the entry of aliens and the conditions of their stay or to make a distinction between nationals and aliens."

E. Recovery of maintenance for the child (art. 27, para. 4)

51. The obligation to facilitate the recovery of maintenance for children and the judicial enforcement of claims for such maintenance which is laid down in article 27, paragraph 4, of the Convention is fulfilled by the legal system of the Federal Republic of Germany, for example by the fact that a child who sues for recovery of maintenance is granted legal aid and the child's claims for maintenance are adapted to changes in the cost of living at regular intervals, especially on the basis of the Standard Maintenance Ordinance of 27 June 1970 (Federal Law Gazette, Part I, p. 1010) in its respective amended version. Furthermore, special reference must be made to the Act on Advance Maintenance Payments of 23 July 1979 as contained in the notification of 19 January 1994 (Federal Law Gazette, Part I, p. 165), through which maintenance for children of single mothers or fathers is ensured under certain conditions (for a maximum of 72 months). The Federal Republic of Germany is receptive to the idea of assuming international obligations for the purposes stipulated in paragraph 4 of the Convention; this is evident, for example, from the fact that it is a State party to the New York Convention on the Recovery Abroad of Maintenance Obligations of 20 June 1956 (Federal Law Gazette 1959, Part II, p. 149).

F. Children deprived of their family environment (art. 20)

52. Article 20, paragraph 1, of the Convention stipulates that the child shall be entitled to special protection and assistance provided by the State in the event that he or she cannot or can no longer grow up in his or her family environment. This entitlement is ensured in the Federal Republic of Germany above all through the fact that public authorities and the courts - the youth welfare offices and the guardianship courts, for instance - intervene when the special need for protection of a child deprived of his or her family environment so requires. The other forms of care provided for under article 20, paragraphs 2 and 3 - with the exception of kafalah of Islamic law - are also embodied in national law. This is true for placement in a foster family (sect. 33 of Book Eight of the Social Code), placement in a suitable institution for the care of children (sect. 34 of Book Eight of the Social Code) and adoption (sect. 1741 seq. of Book Eight of the Social Code).

G. Adoption (art. 21)

53. The minimum requirements laid down in article 21 of the Convention to be observed by the States parties in the case of adoption of children - in so far as this legal institution has been established in such State - are fulfilled in the Federal Republic of Germany. Reference is made in this context to the European Convention on the Adoption of Children of 24 April 1967 (Federal Law Gazette 1980, Part II, p. 1093), which was ratified by Germany.

54. In compliance with article 21 (a), adoption of a child is only approved by the competent authorities - who determine in accordance with legal procedure whether the adoption is permissible - after especially those persons concerned under national law have also given their consent to the adoption "on the basis of such counselling as may be necessary". These requirements are specifically met by section 1752 of the Civil Code, pursuant to which the adoption is to be granted by the guardianship court upon application of the

person seeking to adopt the child. The guardianship court must first determine whether the preconditions for adoption exist. This also includes determining whether the requisite declarations of consent to the adoption have been given; in addition to the child (sect. 1746 of the Civil Code), the parents of the child and the spouse of the person seeking to adopt the child must also give their consent (sect. 1747 to 1749 of the Civil Code). The declaration of consent must be drawn up in the form of a notarial deed (sect. 1750, subsect. 1, sentence 2, of the Civil Code). It is thus ensured that the persons giving their consent are informed of the legal implications of their declaration, as is stipulated in section 17, subsection 1, of the Act on the Authentication of Documents (BeurkG) of 28 August 1969 (Federal Law Gazette, Part I, p. 1513). The Federal Republic of Germany emphatically advocates the establishment of reliable legal standards for inter-country adoption in order to prevent abuse.

55. The requirement laid down in article 21 (c) of the Convention, namely that inter-country adoption be subject to safeguards equivalent to those existing in the case of national adoption, is fulfilled under the national law of the Federal Republic of Germany: the procedure particularly conducive to the protection of the child to be adopted, which provides for examination of the preconditions for adoption by the guardianship court ex officio, is uniformly applicable to inter-country adoption in the Federal Republic of Germany as well (see especially art. 23 of the Introductory Act for the Youth Courts Act including its sentence 2 in conjunction with section 1746, subsection 1, sentence 4, of the Civil Code and the report of the Legal Affairs Committee of the German Bundestag in Bundestag printed paper 10/5632, p. 44). In the interest of combating traffic in children and similar forms of abuse, article 21 (d) stipulates that States parties shall ensure that placement does not result in improper financial gain for the parties involved. This requirement is met under national law especially by the prohibition of traffic in children laid down in section 14a of the Act on Placement for Adoption as contained in the notification of 27 November 1989 (Federal Law Gazette, Part I, p. 2016).

56. To protect the children involved in inter-country adoption, the Federal Republic of Germany furthermore advocates the conclusion of appropriate international agreements in order to establish reliable legal standards for such adoptions and to prevent abuse. The Federal Government participated in the preparation of the convention with this objective: on 29 May 1993, the Seventeenth Meeting of the Hague Conference on Private International Law presented the Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption.

H. Illicit transfer and non-return (art. 11)

57. The obligation that can be inferred from article 11, paragraph 1, of the Convention, namely to combat the illicit transfer and non-return of children abroad, is fulfilled by the Federal Republic of Germany above all by section 235 of the Criminal Code. Pursuant to this provision, "anyone who abducts a person under the age of 18 from his or her parents, guardian or curator by means of guile, threats or force" shall be punished. This threat of punishment applies to any form of child abduction, regardless of whether the child in question is transferred abroad or remains in the country. Under

civil law, furthermore, the parent having the right of care and custody of the child is entitled to demand that the child be returned by anyone who illicitly withholds the child from him or her (sect. 1632, subsect. 1, of the Civil Code; sect. 1705, sentence 2, of the Civil Code).

58. Two international conventions ratified by the Federal Republic of Germany especially serve to promote the international cooperation addressed in article 11, paragraph 2, of the Convention to combat abduction of children abroad. These are the Hague Convention on Civil Aspects of International Child Abduction of 25 October 1980 and the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children of 20 May 1980. The Hague Convention entered into force on 1 December 1990 and the European Convention on 1 February 1991. An implementing law - article 1 of the law of 5 April 1990 (Federal Law Gazette, Part I, p. 701) - was enacted for both conventions.

I. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)

59. The measures stipulated in article 19 of the Convention to protect children from violence, abuse or neglect while they are in the care of parents or any other persons having custody are ensured under the national law of the Federal Republic of Germany through a multitude of legal provisions.

60. The objectives stated in paragraph 1 of article 19 are especially served by the numerous and varied forms of assistance provided within the framework of Book Eight of the Social Code - Child and Youth Services. In addition, protective measures are above all undertaken in the Federal Republic of Germany on the basis of the Act for the Protection of Young Persons in Public and the Act on the Dissemination of Publications Harmful to Young Persons. Children and juveniles furthermore enjoy special protection under criminal law from the dangers threatening them in the family. Particularly worthy of mention in this context are the following pertinent provisions of the Criminal Code: section 223b (Abuse of Charges), section 170d (Violation of the Duty of Care and Custody), section 174 (Sexual Abuse of Charges), section 176 (Sexual Abuse of Children), section 177 (Rape), section 178 (Sexual Coercion), section 179 (Sexual Abuse of Persons Unable to Resist) and section 180b, subsection 2, No. 2 (Traffic in Human Beings with Persons under the Age of 21). Under civil law, section 1631, subsection 2, of the Civil Code stipulates that parents and other persons having the right of care and custody of children are prohibited from utilizing degrading disciplinary measures. According to a draft bill which is currently the subject of parliamentary debate, this provision is to be worded more precisely in order to make a clearer distinction between permissible and prohibited measures - and especially to establish the impermissibility of physical and emotional abuse.

61. The protective measures mentioned in article 19, paragraph 2, of the Convention, which are to serve to ensure the protection from violence, abuse and neglect stipulated in paragraph 1, are provided for under national law above all by Book Eight of the Social Code - Child and Youth Services. Book Eight contains a multitude of general beneficial services and individual socio-educational grants; the purpose of these is to furnish guidance and support for parents and other persons having parental powers in the exercise

of their child-rearing responsibilities, as well as to protect children and juveniles from threats to their well-being. Mobile forms of socio-educational assistance (socio-educational family help, for instance) are a key area of activity. Socio-educational family help is designed to provide intensive care and accompaniment to help families fulfil their educational tasks, cope with everyday problems, solve conflicts and crises, and use the services of authorities and institutions, and thus generally helps them to help themselves (sect. 31 of Book Eight of the Social Code). In cases involving acute conflicts, children and juveniles may also receive counsel without the knowledge of the person who has the right of care and custody (sect. 8, subsect. 3, of Book Eight of the Social Code), and the Youth Welfare Office is obliged to provide shelter and protection for a child or juvenile if the situation so requires (sect. 42, subsects. 2 and 3, of Book Eight of the Social Code). If restriction or revocation of the right of care and custody is necessary, the matter is to be brought before the guardianship court, which is charged with taking the necessary measures pursuant to section 1666 of the Civil Code.

62. To the extent article 39 of the Convention, in support of the foregoing, calls for appropriate measures to promote physical and psychological recovery and social reintegration, such demand is met under national law especially by section 5 of Book One of the Social Code if in a specific instance the facts of the case fulfil the requirements for application of the law of social compensation stipulated therein (especially the Crime Victims Compensation Act (OEG) and the Federal Communicable Diseases Act could conceivably apply) and if injury to health has consequently resulted. Reference should also be made in this context to the forms of socio-educational assistance stipulated in Book Eight of the Social Code - Child and Youth Services.

J. Periodic review of placement (art. 25)

63. The obligation laid down in article 25 of the Convention, pursuant to which a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health is to enjoy a periodic review of the treatment provided to him or her and all other circumstances relevant to his or her placement, is fulfilled in the Federal Republic of Germany by Book Eight of the Social Code - Child and Youth Services. Special reference must be made in this context to its provisions for inspecting and reviewing the persons entrusted with the care of children (sect. 37, subsect. 3, of Book Eight of the Social Code); in the case of privately arranged care, such inspection and review is conducted by the agency charged with supervision of children in care (sect. 44 of Book Eight of the Social Code) and in the case of institutions and other establishments providing care or accommodation for children by the local inspection authorities (sect. 46 of Book Eight of the Social Code).

V. BASIC HEALTH AND WELFARE

A. Survival and development (art. 6, para. 2)

64. The obligation of the States parties under article 6, paragraph 2, of the Convention, namely to "ensure to the maximum extent possible the survival and development of the child", can be inferred from the overriding principle laid

down in article 6, paragraph 1, which states that "every child has the inherent right to life". Under national law in the Federal Republic of Germany, the right to life is safeguarded as a basic right in article 2, paragraph (2), sentence 1, of the Basic Law. According to the rulings of the Federal Constitutional Court (BVerfGE 88), 203, 251), this protection is also extended to the unborn child. The extent of this duty to provide protection is to be defined in light of both the importance and need for protection of the unborn child on the one hand and the merits of conflicting objects of legal protection on the other. Such objects of legal protection affected by the right to life of the unborn child above all include (BVerfGE 88, 203, 254) - taking as a point of departure the right of the pregnant woman to protection of and respect for her human dignity (art. 1, para. (1), of the Basic Law) - the pregnant woman's right to life and physical integrity (art. 2, para. (2), of the Basic Law) as well as her right to self-fulfilment (art. 2, para. (1), of the Basic Law). The woman's basic rights do not carry so much weight in this situation as to relieve her of her legal obligation to carry the child to term as a matter of principle founded on these basic rights. As a consequence of the position of the woman defined by her basic rights, however, exceptional situations arise in which it is admissible - and, in some cases, perhaps even advisable - to refrain from imposing such a legal obligation. It is up to legislators to define such exceptional situations as extraordinary elements of a rule (BVerfGE 88, 203, 255). The right of the disabled child recognized by article 23 of the Convention, namely the right to special care enabling the child to enjoy a full and decent life in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community, takes up the thread of article 5 of the Declaration of the Rights of the Child as well as article 12, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights.

B. Disabled children (art. 23)

65. Under German national law, a social right corresponding to the stipulations of article 23 is recognized pursuant to section 10 of Book One of the Social Code (Federal Law Gazette 1975, Part I, p. 3015). Application of this provision, moreover, is not restricted to disabled children; rather, any person who is physically, mentally or emotionally disabled is conceded

> "... a right to such assistance as is necessary
>
> 1. to avert, eliminate or ameliorate or to prevent aggravation of his or her disability, or to mitigate the consequences of such disability,
>
> 2. ensure him or her a place in society commensurate with his or her inclinations and capabilities, especially in working life."

66. Article 23 of the Convention, which in keeping with its specific area of application guarantees the corresponding rights of children, does not prohibit States from similarly extending these rights to adults as well. Incidentally, pursuant to section 1 of the Social Code - General Part, the social rights laid down in the Social Code are intended to contribute to "creating equal preconditions for the free development of the individual's personality, especially for young people". Under national law, the right to assistance for

the disabled is a judicially enforceable social right; its substance and the preconditions for its application are defined by special statutory provisions. These provisions ensure that the Federal Republic of Germany fulfils its obligations under article 23 of the present Convention in every respect. In the Federal Republic of Germany, measures for assisting the disabled are accorded particular public attention. This is also evident from the fact that since 1982, the Federal Government has presented a report on the situation of the disabled and developments in the area of rehabilitation to the German Bundestag once in the course of each legislative period.

C. Health and health services (art. 24)

67. In guaranteeing the right of the child to the highest attainable standard of health and to health care services, article 24, paragraph 1, of the Convention picks up the thread of article 12 of the International Covenant on Economic, Social and Cultural Rights, which already safeguards the right to the highest attainable standard of health as a basic social right of every human being, and goes on to expressly establish this right for children. In paragraphs 2 and 3, article 24 furthermore cites numerous examples of areas in which the States parties should undertake measures to implement this right of the child. measures of the kind prescribed or recommended by article 24 to implement the right of the child to the highest attainable standard of health are an integral part of the health policy pursued in the Federal Republic of Germany at all levels of government and in the municipalities. This is also true of the international cooperation addressed in paragraph 4, which takes particular account of the needs of developing countries.

D. Social security and child care services and facilities (art. 26 and art. 18, para. 3)

68. The social human right to which children are entitled pursuant to art. 26 of the Convention, namely the right to have access to social insurance, has already been laid down in article 9 of the International Covenant on Economic, Social and Cultural Rights and is thus recognized by the Federal Republic of Germany as a State party to the Covenant. Under German national law, this right is laid down within the framework of the Social Code as a social right to which every person is entitled (sect. 4 of the Social Code - General Part). Paragraph 1 of the Convention confirms that the right "to benefit from social security, including social insurance" applies to children as well. Whether and to what extent the States parties grant benefits from social insurance or other "social security benefits" is not spelled out in paragraph 1 and is thus left to the discretion of the States parties. In the Federal Republic of Germany, children are covered under the social security system, and especially under the system of social insurance, in a wide variety of ways, even if - due in particular to lack of an employment relationship - they do not enjoy insurance protection in their own right. In such cases, as a rule, they are entitled to benefits deriving from their parents' or parent's insurance. Under the statutory pension insurance scheme, for instance, a child is entitled to an orphan's benefit in the event of the death of his or her parents or parent. Under the statutory accident insurance scheme, children are covered regardless of whether an employment relationship exists or not and, namely, in respect of those accidents which occur while the children are attending kindergartens and general education schools. In so far as children

are not themselves members of a statutory health insurance scheme - due in particular to lack of an employment relationship of their own - they enjoy insurance protection of their own as family members of a member; this entitlement to benefits does not derive from the entitlement of the person who is actually a member but instead exists in its own right. Further social benefits which can also accrue to children are provided within the framework of social assistance pursuant to the Federal Social Assistance Act (BSHG).

69. Article 18, paragraph 3, of the Convention stipulates that children of working parents shall have the right to benefit from child care services and establishments for which they are eligible (to the extent these are available). This corresponds to the situation under German national law. On the whole, the supply of places for children between the ages of three and six is largely sufficient in the majority of the German Länder; the opening hours of the establishments, however, do not always meet the needs of working parents. In some parts of the country, demand outstrips supply. Particularly in the "old" Länder, there is an insufficient supply of places for children under the age of three as well as for children over the age of six after school hours.

70. Children of working parents now already have the right to benefit from the establishments for which they are eligible - to the extent these are available. The persons or groups financing and operating these establishments decide on their own responsibility which priorities shall govern admission of children when there are not enough places to go around. In general, the fact that the parents work is accepted as a criterion for admission, whereby single parents are given priority. The availability of a sufficient number of day car establishments for children, however, is one of the preconditions for enhancing the compatibility of working life and child-rearing responsibilities. Initiatives by firms to create additional places are applauded in this context.

71. According to section 24 of Book Eight of the Social Code - Child and Youth Services - the Länder and the competent regional and local authorities are responsible for ensuring that the supply of day care establishments for children is increased to meet demand. In the case of kindergartens, the following applies as well: as of 1 January 1996, a place in a kindergarten must be made available to every child from the time he or she turns three until the time he or she enters school. The institution of a legal entitlement to a place in a kindergarten as well as the demand-oriented increase in the number of day care places for children under the age of three and over the age of six are linked not only with the obligation to make day care places available for the children of working parents; they are also intended to supplement and support the institution of the family and further the education, development and care of children.

E. Standard of living (art. 27, paras. 1-3)

72. The right to an adequate standard of living that is guaranteed in article 27 of the Convention constitutes a reaffirmation for children of the basic social right of all human beings which has already been laid down in article 11 of the International Covenant on Economic, Social and Cultural Rights and is hence binding for the Federal Republic of Germany. In

article 27, this standard of living is defined in terms of the child's special needs, whereby paragraph 1 stipulates that such standard must be adequate for the child's physical, mental, spiritual, moral and social development.

73. The Convention goes on to state that securing the living conditions required for the development of the child is primarily the duty of the parents or other persons responsible for the child (art. 27, para. 2), a duty which is to be fulfilled within their abilities and financial capabilities; this position is upheld under national law by article 6, paragraph (2), of the Basic Law. Reference is made in this context to the obligation of parents to provide maintenance for their children, which is governed by sections 1601 seq. of the Civil Code and - for children born out of wedlock - by sections 1615 seq. of the Civil Code.

74. To the extent that the parents or other persons responsible for the maintenance of children are completely unable or only partially able to fulfil the obligations arising out of article 27, paragraph 2, the Convention obligates the States parties in article 27, paragraph 3, to take appropriate measures within their means to assist those responsible for the maintenance of children in the fulfilment of their obligations and to provide material assistance and support programmes in order to ensure an adequate livelihood. In respect of the Federal Republic of Germany, reference is made in this context above all to the entitlement to State welfare assistance which is laid down in the Federal Social Assistance Act; assistance is provided under this regime when the needs of the child cannot otherwise be met. According to the Federal Social Assistance Act, the purpose of State welfare assistance is to make it possible for anyone - regardless of his or her residence status - who is unable to help himself or herself, and who does not receive the necessary assistance from anyone else, to lead a life in a manner consistent with human dignity. Assistance is furthermore provided under the Act on Benefits for Persons Applying for Asylum.

VI. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance (art. 28)

75. The cultural basic right of every human being to education that is laid down in general form in article 13 of the International Covenant on Economic, Social and Cultural Rights is confirmed specifically for children and elaborated in greater detail in article 28 of the Convention. This right is ensured under the national legal system of the Federal Republic of Germany; in respect of article 28, paragraph 1 (a) through (e), reference is hence made to the following:

(a) Subparagraph (a): compulsory schooling begins for all children at the age of six. Schooling is free of charge;

(b) Subparagraph (b): the general education secondary schools - Hauptschule, 1/ Realschule 2/ and Gymnasium 3/ - build on the foundation laid by the primary schools (Grundschulen) common to all children. In many Länder, comprehensive schools (Gesamtschulen) combining these three types of secondary schools exist as well. Beginning in grade 10, pupils attending general education or vocational secondary schools are entitled to public financial assistance in the form of a grant if for compelling reasons they must attend a school away from home;

(c) Subparagraph (c); the certificate of qualification entitling recipients to study at a university or equivalent institution is conferred upon completion of 12 or 13 progressive years of schooling, at the end of the upper level of the Gymnasium (or, if applicable, the comprehensive school), or upon completion of coursework at upper-level vocational education schools also providing general university qualification. This certificate of qualification may either be general (allgemeine Hochschulreife), entitling recipients to study the subject of their choice at a university or equivalent institution, or restricted (fachgebundene Hochschulreife), entitling recipients to commence higher education studies only in certain subjects. Evening Gymnasien for people who are already in employment, placement tests, Kollegs, 4/ and special examinations for admission of particularly gifted persons in employment to higher education afford further opportunities for acquiring general university entrance qualification. A certificate of Fachhochschulreife, which entitles the recipient to pursue courses of study at a Fachhochschule 5/ or corresponding courses of study at a comprehensive university (Gesamthochschule), can generally be acquired upon completion of 12 progressive years of schooling or upon completion of coursework and practical vocational training at a two-year specialized technical secondary school (Fachoberschule). This qualification can also be acquired in other ways (through an examination for particularly gifted persons in employment, for instance);

(d) Subparagraph (d): in the Federal Republic of Germany, the requirements of subparagraph (d) are satisfied by the information and guidance services instituted by both the education administrations (the Land Ministries of Education and Cultural Affairs and the Land Ministries of Science) and the employment administration (the Federal Institute for Employment (BfA));

1/ General secondary school - lower level - providing full-time compulsory education (grades 5 or 7 through 9 or 10).

2/ General secondary school - lower level - giving access to the upper level of secondary education (grades 5 or 7 through 10).

3/ General secondary school - lower and upper level - providing general university qualification (grades 5 or 7 through 12 or 13.

4/ General-education institutions preparing adults for higher education.

5/ Special type of higher education institution offering highly practice-related courses of a scientific nature.

(e) Subparagraph (e): violations of the existing compulsory education requirement for children are rare. Special assistance and encouragement for weaker pupils is furnished in schools within the framework of numerous special assistance measures.

76. Article 28, paragraph 2, of the Convention stipulates that school discipline must be administered in a manner consistent with the child's human dignity, a requirement which is observed under national law as follows: in the event that a pupil violates a duty incumbent on him or her within the pupil-school relationship, educational measures have priority over disciplinary measures. If educational measures (discussion with the pupil, warning, imposition of additional tasks or homework, requirement that missed classwork be made up, etc.) prove insufficient, then various forms of disciplinary measures can be contemplated; written reprimand, transfer to a parallel class, temporary suspension from classroom instruction or expulsion from school. The structure and implementation of these measures may differ in the individual Länder of the Federal Republic of Germany. Corporal punishment is expressly forbidden.

77. The Federal Republic of Germany attaches great importance to the demand for international cooperation in matters relating to education which is voiced in article 28, paragraph 3, of the Convention. As a member of global, supraregional and regional organizations (UNESCO, OECD, the European Union and the Council of Europe, for example), Germany actively participates in all measures undertaken within the framework of these organizations to encourage such cooperation and to promote both the exchange and transfer of and the equality of access to scientific and technical knowledge.

B. Aims of education (art. 29)

78. The educational objectives specified in article 29, paragraph 1, of the Convention pick up the thread of article 26, paragraph 2, of the Universal Declaration of Human Rights and article 13, paragraph 1, sentence 2, of the International Covenant on Economic, Social and Cultural Rights (see art. 29 (a)-(e) of the Convention for details) and are binding in Germany pursuant to a number of resolutions adopted by the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany.

79. Article 29, paragraph 1 (c) of the Convention, which states that the education of the child should be directed, among other things, to development of respect for "his or her own cultural identity, language and values" and respect for "the country from which he or she may originate", cannot be interpreted to mean that children from families of guest workers living in the Federal Republic of Germany or children of other foreign origin have a right to receive instruction in their native language in the country in which they reside. Rather, resolution of this issue so crucial to the future structure of the nation remains reserved to the States parties, who are to decide the matter within the framework of and in accordance with their respective integration policies. For the same reasons, the Convention did not call for extension of the compulsory schooling requirements to encompass applicants for

asylum who have not been recognized as such. The Government of the Federal Republic of Germany clarified this point within the framework of a declaration at the time the instrument of ratification was deposited.

80. The right to establish private schools, which is addressed in article 29, paragraph 2, of the Convention in conformity with article 13, paragraph 4, of the International Covenant on Economic, Social and Cultural Rights, is guaranteed under German national law by the corresponding basic right laid down in article 7, paragraph (4), of the Basic Law.

C. Leisure, recreation and cultural activities (art. 31)

81. Article 31, paragraph 1, of the Convention makes the right laid down in article 7 (d) of the International Covenant on Economic, Social and Cultural Rights - namely the right to rest, leisure, reasonable limitation of working hours, and periodic holidays with pay, as well as remuneration for public holidays - usable in the special situation of a child who is not yet in employment. Especially children of compulsory school age can find themselves in a situation corresponding roughly to that of persons who are employed. In furthermore guaranteeing children the right to participate freely in cultural life and the arts, article 31, paragraph 1, essentially confirms for children the cultural basic right of every human being which is acknowledged in article 15 of the International Covenant on Economic, Social and Cultural Rights.

82. Paragraph 2 of article 31 of the Convention obligates the States parties to promote the right of the child guaranteed under paragraph 1 to participate in cultural and artistic life. Public measures in Germany that particularly deserve mention in this context include those governing school holidays, which are of significance to children who attend schools, as well as those pertaining to the undertaking and subsidizing of class trips. Extracurricular measures furthering the education of young people and recreational activities for children and young persons are provided for especially in section 11 of Book Eight of the Social Code. In the Federal Republic of Germany, the right of the child to enjoy rest and leisure and to engage in play and recreational activities appropriate to the age of the child is furthermore promoted to public measures or publicly subsidized measures implemented by voluntary youth service organizations (youth associations, youth welfare associations); the actual exercise of this right by the child, however, largely falls within the sphere of responsibility of his or her parents. The Federal Government, by the way, is convinced that exposure to and active involvement in the arts and cultural activities should begin at the earliest possible age so that children can acquire a wide variety of cultural experiences while they are still quite young. Within the framework of its competence, the Federal Government therefore endeavours to ensure that as many children as possible have an opportunity to participate in cultural life and thus fully develop their intellectual, physical and artistic capabilities.

VII. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency

1. Refugee children (art. 22)

83. Children who are refugees as defined in article 22, paragraph 1, of the Convention are especially in need of protection. According to paragraph 1, the States parties should therefore ensure that they receive "appropriate protection and humanitarian assistance". This should also place children who are refugees in a position to exercise the rights laid down in other international agreements on human rights or humanitarian issues, in so far as such agreements are binding under international law for the State party in question. The Federal Republic of Germany is affected by this provision as a State party to both the Geneva Convention relating to the Status of Refugees of 28 July 1951 (Federal Law Gazette 1953, Part II, p. 559) and the pertinent Protocol of 31 January 1967 (Federal Law Gazette 1979, Part II, p. 1,293). On the basis of these instruments, children in the Federal Republic of Germany who are refugees enjoy all the rights arising out of application of the Geneva Convention. Pursuant to article 23 of the Geneva Convention, for instance, they are eligible for State welfare assistance; in this respect, as well as in respect of receipt of other forms of assistance, they are thus as a matter of principle entitled to the same treatment as a national of the host-State. The rights laid down in the Convention relating to the Status of Refugees otherwise largely coincide with the parallel guarantees stipulated in the present Convention or, respectively, take precedence over the latter due to their greater specificity.

84. Assistance to safeguard the rights of a refugee child who has entered the country unaccompanied or is otherwise alone can, for instance, take the form of action by the youth welfare authorities or the guardianship court to place the child in a family or institution or to undertake other measures which are called for in order to prevent harm from befalling the child. To this end section 1,666 of the Civil Code provides for the appointment of a legal guardian; an international competence for such a measure follows from article 9 of the Hague Convention concerning the powers of authorities and the law applicable in respect of the protection of miners.

85. The obligations of the State parties arising out of article 22, paragraph 1, do not include facilitating entry or making entry possible for children who wish to enter a country unaccompanied for the purpose of seeking refugee status there, since article 22, paragraph 1, leaves national provisions governing the entry of aliens and the conditions of their stay unaffected and hence especially does not constitute an obstacle to the validity of a visa requirement for children. The Federal Republic of Germany made a clarifying statement to this effect in a declaration it submitted at the time the instrument of ratification was deposited.

86. The willingness that the Federal Republic of Germany has demonstrated in the past to engage in international cooperation to resolve issues pertinent to refugees will continue to exist in the future as well.

2. Children in armed conflicts (art. 38), including physical and psychological recovery and social reintegration (art. 39)

87. Article 38 of the Convention confirms guarantees which are intended to protect the child in the event of armed conflicts. In doing so, this provision expressly points out to the States parties their duty to observe their binding obligations under international humanitarian law. On this basis, paragraph 2 stipulates that children under the age of 15 may not take a direct part in hostilities. The Federal Government, like a number of other Governments, emphatically pointed out through its delegation in the final consultations of the Geneva Working Group that this age limit is inappropriately low. The Federal Government therefore will not make any use of this age limit. It drew attention to this point of view in a declaration which it submitted at the time the instrument of ratification was deposited.

88. In contrast to the age limit of 15 likewise established by article 38, paragraph 3, of the Convention for recruitment of persons into the armed forces, the national law of the Federal Republic of Germany affords young people more extensive protection. A person may not be recruited into the armed forces before he has at least attained the age of 17 (see sect. 7, subsect. 1, No. 1; sect. 11, subsect. 1, No.1; and sect. 18, subsect. 1, No. 1 of the Military Career Regulation (SLV) as amended on 4 July 1988). Federal Law Gazette, Part I, p. 996. Men who have reached the age of 18 may be required to serve in the military (art. 12a, para. (1), of the Basic Law).

89. The obligation of the States parties following from article 39 of the Convention, namely to take measures serving to promote therapy and rehabilitation for children who have, for instance, been victims of any act of violence in the Federal Republic of Germany and have thereby suffered injury to their emotional or physical health, is fulfilled under national law especially by section 5 of the Social Code - General Part (here specifically in conjunction with the Crime Victims Compensation Act). Reference must also be made in this context to the forms of socio-economic assistance provided for in Book Eight of the Social Code - Child and Youth Services.

B. Children in conflict with the law

1. The administration of juvenile justice (art. 40)

90. Article 40, paragraph 1, of the Convention obligates the States parties to ensure that juveniles who have infringed penal law are treated in a manner which especially emphasizes socio-educational and rehabilitative aspects. This corresponds to the objectives pursued under the national law of the Federal Republic of Germany through the Youth Courts Act. To achieve the objectives stipulated in paragraph 1 of article 40, paragraph 2 contains a list of pertinent measures. In this list, the Convention places special emphasis on the fact that the basic human rights enjoyed by any person accused of a crime in court must also be respected if a juvenile (a person from the age of 14 up to and including the age of 17) must answer for a crime.

91. Paragraph 2 (a) therefore stresses for juveniles the principle of nulla poena sine lege, which is already guaranteed as a basic human right by article 15, paragraph 1, sentence 1, of the International Covenant on Civil

and Political Rights, by article 7, paragraph 1, of the European Convention for the Protection of Human Rights and Fundamental Freedoms and, under German national law, by article 103, paragraph (2), of the Basic Law.

92. Paragraph 2 (b) then proceeds to list the specific rights of the juvenile, which largely correspond to the specific rights that are already guaranteed for any person accused of a crime, irrespective of his or her age, under the International Covenant on Civil and Political Rights as well as under the European Convention for the Protection of Human Rights and Fundamental Freedoms and are hence already binding on the Federal Republic of Germany.

93. The same applies to the presumption of innocence in favour of the juvenile mentioned in paragraph 2 (b) (i), which corresponds to the provisions of article 14, paragraph 2, of the International Covenant on Civil and Political Rights and of article 6, paragraph 2, of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

94. The right of the juveniles stipulated in paragraph 2 (b) (ii), namely to be informed of the charges against him or her - either directly or through his or her parents or legal guardians - and to have legal or other assistance, is already guaranteed by the provisions of article 14, paragraph 3 (a) and (b), of the International Covenant on Civil and Political Rights (see also art. 6, para. 3 (a) and (c), of the European Convention for the Protection of Human Rights and Fundamental Freedoms). This guarantee does not necessarily imply an obligation to assign legal or other appropriate assistance to a juvenile in a youth court proceeding in each and every case without exception; pursuant to the International Covenant on Civil and Political Rights, legal assistance must be asigned to the accused "in any cases where the interests of justice so require". The Federal Government therefore pointed out, within the framework of a declaration which it submitted at the time the instrument of ratification was deposited, that article 40, paragraph 2 (b), should be applied in such a way that, in the case of minor infringements of the penal law, there shall not in each and every case exist an entitlement to have legal or other assistance in the preparation and presentation of the defence. In cases of the latter kind, it is sufficient as a matter of principle under the provisions of national law (sect. 50, subsect.1, and sects. 67 and 69 of the Youth Courts Act) if the parents or other persons with parental powers are able to participate in the main proceedings.

95. The recognition in paragaph 2 (b) (iii) of the right of the juvenile to a hearing by a competent and independent court merely serves to underscore the corresponding rights already arising - under national law as well - out of article 14, paragraph 1, of the International Covenant on Civil and Political Rights and article 6, paragraph 1, sentence 1, of the European Convention for the Protection of Human Rights and Fundamental Freedoms; however, in derogation from the aforementioned instruments, paragraph 2 (b) (iii) does not provide for a public hearing, a fact attributable to both the special position of the juvenile offender in a youth court proceeding and consideration of the best interests of the child. The alternative to a court hearing permitted under the subparagraph, namely a hearing by a competent, independent and impartial authority, is irrelevant in the Federal Republic of Germany in view of the existing legal guarantee of the right of recourse to the courts. In

order to avoid unnecessarily burdening the juvenile with a formal criminal proceeding entailing preferment of charges, main proceedings and sentencing, and in order to administer justice in a manner appropriate to the nature of juvenile crime, courts in Germany are increasingly availing themselves of the option of informally handling juvenile crime cases. This means that under certain circumstances the public prosecutor refrains from prosecuting or - likewise under certain circumstances - the judge dismisses the case following preferment of charges (sects. 45 and 47 of the Youth Courts Act).

96. The procedural guarantees under the rule of law which arise out of paragraph 2 (b) (iv) are binding in the Federal Republic of Germany for the simple reason that such guarantees for accused persons of any age already arise out of article 14, paragraph 3 (e) and (g), of the International Covenant on Civil and Political Rights and, to a certain extent, out of article 6, paragraph 3 (d), of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

97. Paragraph 2 (b) (v) - essentially concurring with article 14, paragraph 5, of the International Covenant on Civil and Political Rights - contains the guarantee for the person convicted of a crime to have the decision of his case reviewed by a higher judicial body. Since the Federal Republic of Germany does not unconditionally accept this principle, it already made a reservation to this effect at the time the instrument of ratification of the International Covenant on Civil and Political Rights was deposited; that reservation, which concerned article 14, paragraph 5, of the Covenant, stipulated that "in the case of minor infringement of the penal law, there shall not in each and every case exist an obligation to have a sentence not calling for imprisonment reviewed by a 'higher competent authority or judicial body'". The Federal Republic of Germany made a similar reservation at the time the instrument of ratification of the present Convention was deposited.

98. In respect of the guarantee contained in paragraph 2 (b) (vi) providing for the assistance of an interpreter if circumstances so require, reference is made to the parallel guarantees in article 14, paragraph 3 (f), of the International Covenant on Civil and Political Rights and in article 6, paragraph 3 (e), of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

99. Concerning the entitlement laid down in paragraph 2 (b) (vii), namely the juvenile's entitlement to respect for his or her privacy, reference is made in respect of court proceedings to the corresponding (parallel) guarantees in article 14, paragraph 1, sentence 3, of the International Covenant on Civil and Political Freedoms and in article 6, paragraph 1, sentence 2, of the European Convention for the Protection of Human Rights and Fundamental Freedoms. German national law furthermore takes due account of the requirement to protect the juvenile's privacy in criminal proceedings especially through section 48 of the Youth Courts Act, which stipulates that the main proceedings of a juvenile charged with an offence shall be held in camera. This does not apply if adults or adolescents (persons from the age of 18 up to and including the age of 20) are concurrently charged with an offence; in such cases, however, the public may be excluded "if this is advisable in the interest of the re-education of the juvenile who has been charged" (sect. 48, subsect. 3, sentence 2, of the Youth Courts Act).

100. Pursuant to article 40, paragraph 3, of the Convention, the States parties are called upon to establish a minimum age below which children shall be presumed not to have the capacity to infringe the penal law. This requirement is met under German law by section 19 of the Criminal Code, from which it follows that a child under the age of 14 has no capacity to infringe the penal law.

101. In conformity with article 40, paragraph 4, of the Convention, the Youth Courts Act provides for a wide variety of measures which serve to further the special objectives of the youth court proceedings, namely the re-education and reintegration of the juvenile offender.

2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b), (c) and (d))

102. Article 37 of the Convention confirms that the general human rights guarantees which are of relevance to criminal proceedings must also be observed in criminal proceedings against juveniles. It does so by repeating those human rights guarantees laid down in the International Covenant on Civil and Political Rights which are of fundamental importance to criminal law and the law of criminal procedure and modifying them to cite the child as the holder of said rights. There is hence no need for a harmonization of legal provisions because the Federal Republic of Germany is also one of the States parties to the aforementioned Covenant. In accordance with article 40 of the Covenant, the Federal Government has submitted to the Human Rights Committee a number of reports concerning the fulfilment of the obligations it assumed under the Covenant. The Federal Government therefore presumes that the Federal Republic of Germany is not assuming any obligations under article 37 of the present Convention which are more extensive than those it assumed upon ratification of the International Covenant on Civil and Political Rights.

103. Article 37 (b), sentence 1, of the Convention repeats specifically for children the guarantees following from article 9, paragraph 1, of the Covenant. Sentence 2 of article 37 (b) goes beyond article 9, paragraph 3, of the Covenant by giving the "child" a right to imprisonment "only as a measure of last resort and for the shortest appropriate period of time". It is clear that the provision is not to be interpreted to mean that juvenile prison sentences may only be of brief absolute duration; rather, in view of the re-educative purpose of the penalty, imprisonment should be imposed for the shortest period of time appropriate under the given circumstances. It must hence be ensured that the re-educative purpose of the penalty is served as comprehensively as possible. Section 18 of the Youth Courts Act meets these requirements.

104. Article 37 (c), sentence 1, of the Convention confirms the human rights guarantees already arising for every person out of article 10, paragraph 1, and paragraph 3, sentence 2, of the International Covenant on Civil and Political Rights and, under German national law, out of article (1) of the Basic Law as well. The Federal Government emphatically advocates the maintenance of contact between the juvenile and his or her family which is guaranteed in article 37 (c), sentence 2, "save in exceptional circumstances". The possibility provided for in article 37 (c), sentence 2, namely that

juveniles deprived of liberty need not be separated from adult offenders if it is considered in the child's best interest to refrain from undertaking such separation, is of virtually no practical relevance in the Federal Republic of Germany.

105. A number of the rights of the "child" recognized in article 37 (d) of the Convention already arise - and are hence binding under national law - out of article 9, paragraph 4, of the International Covenant on Civil and Political Rights. The right to prompt access to appropriate assistance is already essentially ensured under article 14, paragraph 3, of the International Covenant on Civil and Political Rights, which guarantees everyone charged with a criminal offence the opportunity to communicate with counsel (subpara. (b)) and to have free legal counsel (subpara. (d)). Article 37 (d) of the present Convention cannot be interpreted to mean that a juvenile must be assigned legal counsel in each and every criminal proceeding. Rather, it is left to the discretion of the States parties to decide whethr the juvenile offender is to be assigned legal counsel or "other appropriate assistance". The "right to prompt access to legal and other appropriate assistance" is, for instance, also observed if the juvenile - or his or her parents or other persons having the right of care and custody - retain an attorney of their own choosing as counsel for the defence; this option is not subject to any restrictions in the Federal Republic of Germany.

3. The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment (art. 37 (a))

106. Reference is made to the comments under section III.H of this report.

4. Physical and psychological recovery and social reintegration (art. 39)

107. Reference is made in this context to paragraph 89 above.

C. Children in situations of exploitation, including physical and psychological recovery and social reintegration (art. 39)

108. The general obligations of the States parties in respect of therapy for and rehabilitation of children are laid down in article 39 of the Convention. Reference is made to the foregoing comments pertaining hereto.

1. Economic exploitation, including child labour (art. 32)

109. Article 32 of the Convention states in greater detail the provision already laid down in article 10, paragraph 3, sentence 2, of the International Covenant on Economic, Social and Cultural Rights - and hence already binding for the Federal Republic of Germany - which stipulates that "children and young persons should be protected from economic and social exploitation". In article 32, paragraph 1, of the Convention, the States parties pick up the thread of the aforementioned Covenant and recognize the right of the child to protection from economic exploitation and from performance of work harmful to his or her development. In practical terms, the stipulations of paragraph 2 above all mean that the States parties must take measures to protect minors at

work and, namely, "having regard to ... international instruments". Within the framework of paragraph 2, only those international instruments are addressed to which the States parties to the United Nations Convention on the Rights of the Child have already acceded; in order to rule out any misunderstandings as to the scope of article 32, paragraph 2, in this regard, the delegation of the Federal Republic of Germany had a corresponding declaration in respect of interpretation recorded at the conclusion of the debate on the present Convention (see doc. E/CN.4/1989/48, para. 721). Under German national law, the requirements of paragraph 2 are fulfilled above all by the Act Concerning the Protection of Minors at Work of 12 April 1976 (Federal Law Gazette, Part I, p. 965), most recently amended by statute of 24 April 1986 (Federal Law Gazette, Part I, p. 560).

110. Child labour is prohibited under the Act Concerning the Protection of Minors at Work as a matter of principle. The Act prohibits any kind of work which is likely to be harmful to the child's health, safety and development and to interfere with his or her school education. For this reason, the Act Concerning the Protection of Minors at Work permits employment of children only in exceptional cases, for instance for the purpose of occupational or work therapy or within the framework of school-related occupational practical training.

111. Children over the age of 13 may be employed by their parents or with their parents' consent to do light work for brief periods of time; examples of such work include helping with the harvest, delivering newspapers and assisting at sporting events. Once pupils have attained the age of 15, they may work for up to four weeks during school vacations.

112. With the approval of the supervisory authority and the consent of their parents, children may participate for a limited period of time in cultural events such as theatre productions, musical performances, and film and radio productions.

113. Compliance with the ban on child labour is monitored by the supervisory authorities of the Länder. In the event of violations of the ban on child labour, these authorities can levy administrative fines of up to DM 20,000. In cases involving harm to the child, the Act Concerning the Protection of Minors at Work threatens imposition of fines and imprisonment.

114. Article 32, paragraph 2 (a) of the Convention does not require the establishment of a single minimum age for admission to employment which is uniformly applicable without exception to all minors and to all kinds of employment. "Establishment of a minimum age" can also be effected by establishing different minimum ages applicable to different kinds of work for juveniles over the age of 14 and for children below this age. The delegation of the Federal Republic of Germany submitted a declaration in respect of interpretation of this point as well as the conclusion of debate on the Convention (see document reference in para. 109 above).

115. Furthermore, the Federal Republic of Germany has ratified the Convention concerning Minimum Age for Admission to Employment (Convention No. 138 of the International Labour Organisation) and regularly submits reports in this regard to the International Labour Office.

2. Drug abuse (art. 33)

116. In respect of efforts to combat drug abuse, which admittedly does not concern children alone, children are in need of special protection, particularly since the sale of drugs to children or their implication in drug-related crime must be considered especially reprehensible. Therefore, in fulfilment of the requirements of article 33 of the Convention, stringent provisions have been included above all in the Narcotics Act of 28 July 1981 (Federal Law Gazette, Part I, p. 681), most recently amended by article 3 of the implementing law of 2 August 1993 for the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Federal Law Gazette, Part I, p. 1407). Pursuant to section 29a, subsection 1, No. 1, of the Narcotics Act, a crime punishable by imprisonment of no less than one year and up to 15 years can be deemed to have been committed if the perpetrator "as a person over the age of 21 sells, administers or hands over narcotics for direct consumption to a person under the age of 18 or designates a person under the age of 18 to deal or otherwise traffic in narcotics". Any person committing this crime on a commercial basis shall be punished by imprisonment of no less than two years (sect. 30, subsect. 1, No. 2, of the Narcotics Act). Article 33 of the Convention demands social and educational measures as well. These have been taken in the Federal Republic of Germany in a wide variety of ways: within the framework of school, for instance, as well as by furnishing information to the public, by providing special forms of socio-educational assistance to young addicts, by offering educational measures for the protection of children and juveniles in accordance with section 14 of Book Eight of the social Code, by offering so-called "low-threshold" forms of assistance, and by providing opportunities for in-patient, in-patient/out-patient and out-patient care, follow-up care and rehabilitation. These measures are based on the National Plan to Combat Drug Abuse of 1990.

3. Sexual exploitation and sexual abuse (art. 34)

117. According to article 34 of the Convention, the States parties are obligated to take measures to protect children from all forms of sexual exploitation and sexual abuse. In respect of the Federal Republic of Germany, the following provisions of the Criminal Code deserve particular mention in this context: section 174 (Sexual Abuse of Charges), section 176 (Sexual Abuse of Children), section 180 (Promotion of Sexual Acts by Minors), section 180a (Promotion of Prostitution), section 180b (Traffic in Human Beings), section 181 (Aggravated Traffic in Human Beings), section 182 (Seduction) and section 184 (Dissemination of Pornographic Literature). Through the 29th Act to Amend the Criminal Law of 31 May 1994 (Federal Law Gazette, Part I, p. 1168), which entered into force on 11 June 1994, the Federal Government replaced sections 182 and 175 (Homosexuality) of the Criminal Code and section 149 (Sexual Abuse of Juveniles) of the Criminal Code of the German Democratic Republic (StGB-DDR), which had continued to be provisionally in effect in the territory of the former German Democratic Republic, with a uniform protective regulation that now protects male and female juveniles under the age of 16 from sexual abuse, irrespective of the sex of the perpetrator or the victim (see II.2.9 of this Report). It of course goes without saying in this context that the problem of sexual abuse of children can be tackled in many ways besides applying the provisions of

criminal law. Such further possibilities include various kinds of socio-educational assistance for the protection of children and young people as well as the forms of socio-educational assistance provided for in Book Eight of the Social Code.

4. Other forms of exploitation (art. 36)

118. The obligation of the States parties laid down in article 36 of the Convention, namely to protect the child from all "other" forms of "exploitation" prejudicial to any aspects of the child's welfare, is intended to enhance and ensure protection from both economic exploitation (art. 32) and sexual exploitation (art. 34) so that international child-protection guarantees are not undermined. Given the indefinite nature of the concept of "social" exploitation addressed here, it can be presumed that the provision concedes the States parties considerable leeway in formulating their pertinent regulations. In view of the large number of protective measures already in effect in the Federal Republic of Germany, this provision entails no further specific regulatory action in Germany at the present time.

5. Sale, trafficking and abduction (art. 35)

119. The obligations arising out of article 35 of the Convention, namely to take measures to prevent the abduction of and traffic in children, are met by the Federal Republic of Germany especially through sections 234 seq. of the Criminal Code and section 14 of the Act on Placement for Adoption. In isolated cases, sections 180b and 181 of the Criminal Code (Traffic or, respectively, Aggravated Traffic in Human Beings) offer protection as well. To prevent traffic in children, especially in girls, the Federal Republic of Germany has entered into international commitments as well. Special reference is made in this context to the protocol of 4 May 1949 (Federal Law Gazette 1972, Part II, p. 1074).

D. Children belonging to a minority or an indigenous group (art. 30)

120. The minorities described in article 30 who live in Germany enjoy the rights guaranteed under this provision.

Part Two

SITUATION AND DEVELOPMENT OF LIVING CONDITIONS OF CHILDREN IN GERMANY (1991-1994)

I. SUMMARY OF KEY ASPECTS OF THE LIVING CONDITIONS OF CHILDREN AND JUVENILES IN GERMANY

121. According to section 84 of Book Eight of the Social Code - Child and Youth Services - the Federal Government is obligated to present a report to parliament in the course of each legislative period on the situation and development of living conditions of young people in Germany. The Federal Government intends to make the topic of its next report the situation and development of living conditions of children in Germany.

122. The presentation of quantitative information in the first part of this section of the present report and the update of the report of the Federal Government on measures undertaken in the Federal Republic of Germany in connection with the ratification of the Convention on the Rights of the Child in the second part should not be interpreted as an attempt to pre-empt the report mentioned in the foregoing paragraph.

A. Numerical data

1. Number of German and alien children and juveniles

123. As of 31 December 1991, 12,275,136 children between the ages of 0 and 14 lived in the Federal Republic of Germany. This age group comprised 15.3 per cent of the total population. The number of juveniles between the ages of 14 and 18 amounted to 3,246,701, or 4.0 per cent of the total population (1,669,061 males = 4.3 per cent of the total male population and 1,577,640 females = 3.8 per cent of the total female population).

124. As of 31 December 1992, the number of alien children between the ages of 0 and 13 living in Germany amounted to 1,138,649 (9.2 per cent of the total number of children in this age group), and the number of alien juveniles from the age of 14 up to but not including the age of 18 amounted to 382,087 (11.5 per cent of the total number of young people in that age group).

125. The overwhelming majority of the alien children and juveniles either came from or were born into families coming from Turkey and what was formerly Yugoslavia. The following table gives a breakdown by sex of alien children and juveniles from the 14 most important countries of the nearly 200 countries of origin represented in the alien population of Germany:

Country	Sex	Age group		Total
		0 - 13 years	14 - 18 years	
Total number of young aliens	female	575 847	228 169	804 018
	male	632 823	273 705	906 528
	total	1 208 670	501 874	1 710 546
Thereof:				
Turkey	female	226 288	88 393	314 681
	male	256 835	107 358	364 193
	total	483 123	195 751	678 874
Former Yugoslavia	female	88 860	35 168	124 028
	male	95 089	43 315	138 404
	total	183 949	78 483	262 432
Italy	female	43 995	17 460	61 455
	male	45 404	18 893	64 297
	total	89 399	36 353	125 752
Greece	female	22 656	12 393	35 049
	male	25 029	13 180	38 209
	total	47 685	25 573	73 258
Bosnia and Herzegovina	female	18 523	6 701	25 224
	male	19 176	7 009	26 185
	total	37 699	13 710	51 409
Poland	female	15 045	6 056	21 101
	male	15 770	6 370	22 140
	total	30 815	12 426	43 241
Romania	female	9 873	3 501	13 374
	male	10 979	6 184	17 163
	total	20 852	9 685	30 537
Morocco	female	9 754	4 220	13 974
	male	10 694	5 123	15 817
	total	20 448	9 343	29 791
Croatia	female	7 732	6 264	13 996
	male	8 035	6 607	14 642
	total	15 767	12 871	28 638
Lebanon	female	9 414	2 038	11 452
	male	10 841	2 611	13 452
	total	20 255	4 649	24 904
Iran (Islamic Rep. of)	female	8 506	2 772	11 278
	male	9 901	3 611	13 512
	total	18 407	6 383	24 790
Portugal	female	6 104	3 441	9 545
	male	6 685	3 591	10 276
	total	12 789	7 032	19 824
Afghanistan	female	8 841	2 053	8 894
	male	7 730	2 916	10 646
	total	16 571	4 969	21 540
Viet Nam	female	7 376	1 610	8 986
	male	8 378	2 098	10 476
	total	15 754	3 708	19 462
Unaccounted for	female	6 738	1 781	8 519
	male	7 609	2 193	9 802
	total	14 347	3 974	18 321

126. Of key importance to the endeavours undertaken by government authorities at the national, Land and local levels as well as by non-governmental organizations to promote integration of alien children and juveniles is the time at which they arrived in Germany. The figures for 1990 (as of 30 September) show that as many as 80 per cent of all alien children under the age of six were born in Germany. The following table gives a breakdown by age group of young aliens in Germany:

Age group	Total	Of whom born in Germany
Under 6	375 430	301 069 (80.2%)
6 to 10	267 687	181 986 (68.0%)
10 up to but not including 16	461 134	277 318 (60.1%)
16 up to but not including 18	188 160	83 894 (44.6%)

2. Economic situation of families with children and juveniles

127. In respect of the old Länder of the Federal Republic of Germany, it can be generally stated that the family household income distribution spans a wide range of income brackets. This is the result of decades of growth in the gross national product accompanied by an only rarely interrupted rise in the standard of living. In most families, children and juveniles also profited from this development. A breakdown of the incomes and economic productivity of family households in the old Länder thus exhibits striking variation. Coexisting alongside family households enjoying good or satisfactory economic productivity are family households marked by difficult economic circumstances and poverty; the latter are especially to be found in areas where the number of children and juveniles in families on welfare is rising as a consequence of unemployment. In the last few years - due to the difficult state of the economy - they have come to comprise an increasingly higher percentage of the total population.

128. At the same time, there continues to be considerable regional variation in the living conditions of children and juveniles and their families in the north and in the south, in urban areas, medium-sized cities and rural areas; this, too, is a factor which must be taken into consideration in addition to the traditional criteria of socio-economic inequality such as income, education, professional standing and social class of the parents.

129. This regional diversity of living conditions has taken on a dramatic accent as a result of the following fact: while it was indeed possible to regain the national unity of Germany, equalization of the differences in living conditions in the eastern and the western parts can only be accomplished gradually, and attitudes and ways of thinking will continue to bear the imprint of the past for a long time to come.

130. The living situations of families and young people have also changed because:

(a) An increasing number of children are growing up as the only child in the family;

(b) An increasing number of children are growing up in single-parent families;

(c) Parental separation and divorce rates are high;

(d) The roles of the family members - especially the women - have changed, reflecting, among other things, the desire to more satisfactorily combine a family and a career.

131. In response to these changes, the new Child and Youth Services Act (Book Eight of the Social Code) established a new and broader foundation for child and youth services, one that increasingly draws the family and the social environment into socio-educational work instead of focusing solely on the child or juvenile. The primary objective is to help the family once again fulfil its functions more satisfactorily. Accomplishment of this objective requires timely and preventive measures oriented towards the diverse living situations of young people and their families.

132. The increases in both child allowances and the child benefit as well as the institution of the child-raising benefit constitute important steps in recent years which have contributed to an overall positive development in the financial situation of families. With the recognition of child-raising years under pension law, the value of work performed within the family is now reflected in the pension insurance system as well.

133. The structural diversity marking the living situations of families is matched by a wide variety of measures offering benefits and tax relief to families. The universal component of the system for equalization of family burdens, which covers all stages of family development (child benefit and tax-free child allowance), is combined with other benefits and forms of tax relief which are made available at specific stages of family development (e.g. child-raising benefit, financial aid for education and training, tax-free allowances for children who are enrolled in educational institutions or training programmes) as well as with measures tailored to the specific circumstances of families in need (e.g. advance maintenance payments for single parents, rent subsidies for family households with low incomes). All three elements of this system for equalization of family burdens were expanded at the beginning of the period of time covered by this report. With the introduction in the new Länder of this system of general and specific measures for equalization of family burdens, the family policy sector has made a key contribution toward improving the living conditions of families with children and juveniles in the new Länder. In the course of the adoption of the 1994 federal budget, economy measures in respect of individual family benefits proved necessary; it was possible, however, to achieve the requisite savings by more strongly orienting benefits to need, in other words, without cutting the general benefit rates.

134. The Federal Constitutional Court has set a minimum standard for equalization of family burdens by ruling that the subsistence minimum for children may not be subject to taxation.

135. Starting from standardized income levels which lay very close to one another in the year 1990 and were concentrated in the lower income brackets,

family incomes in the new Länder have begun to differ more substantially in the years since the unification of Germany and have begun to spread beyond those income brackets - in both directions.

136. The following tables show the income stratification of married couples with children and single parents in the new and old Länder in the year 1992.

Income stratification in the New Länder (1992)

Married couples with children and single parents

Provisional stratification model

Persons subject to wage tax with children*						
Gross wages DM per month	Single parents with		Married couples with			Total in 1000s
	One child in 1000s	Two or more children in 1000s	One child in 1000s	Two children in 1000s	Three or more children in 1000s	
Under 1 000	33	20	23	29	8	112
1 000-2 000	68	40	49	58	23	237
2 000-3 000	85	41	193	160	31	508
3 000-4 000	38	9	128	131	60	367
4 000-5 000	15	4	119	85	29	252
Over 5 000	8	3	172	155	38	376
Total	245	118	683	617	189	1 852
Information: Number of children	245	275	683	1 235	626	3 065
Other taxpayers with children**						
	77	36	101	111	32	358
Information: Number of children	77	84	101	223	102	587
All taxpayers with children (persons subject to wage tax and other taxpayers)						
Total	322	153	785	729	221	2 210
Information: Number of children	322	359	785	1 458	728	3 651

Source: Data processing system of the Federal Ministry for Family Affairs and Senior Citizens re-equalization of family burdens.

* Single parents: Workers, employees or civil servants subject to pension insurance contributions.

Married couples: At least one spouse is a worker, employee or civil servant subject to pension insurance contributions.

** Single parents: Self-employed persons, pensioners or persons not gainfully employed.

Married couples: Each spouse is a self-employed person, pensioner or person not gainfully employed.

Income stratification in the Old Länder (1992)

Married couples with children and single parents

Provisional stratification model

Persons subject to wage tax with children*						
Gross wages DM per month	Single parents with		Married couples with			Total in 1000s
	One child in 1000S	Two or more children in 1000s	One child in 1000s	Two children in 1000s	Three or more children in 1000s	
Under 1 000	123	54	135	127	65	504
1 000- 2 000	57	29	72	59	26	242
2 000- 3 000	89	26	131	78	40	364
3 000- 4 000	107	24	330	245	101	808
4 000- 5 000	89	25	534	430	192	1 270
5 000- 6 000	36	12	444	361	139	992
6 000- 7 000	20	6	386	292	96	800
7 000- 8 000	8	3	299	209	71	591
8 000- 9 000	4	2	191	142	42	381
9 000-10 000	2	1	130	96	25	254
10 000-11 000	1	0	81	67	16	164
11 000-12 000	2	1	42	38	14	96
Over 12 000	2	1	114	116	35	269
Total	540	185	2 888	2 261	862	6 736
Information: Number of children	540	429	2 888	4 522	2 890	11 269
Other taxpayers with children**						
	229	131	315	306	153	1 133
Information: Number of children	229	300	315	611	523	1 978
All taxpayers with children (persons subject to wage tax and other taxpayers)						
Total	769	316	3 203	2 566	1 015	7 869
Information: Number of children	769	729	3 203	5 133	3 412	13 246

Source: Data processing system of the Federal Ministry for Family Affairs and Senior Citizens re-equalization of family burdens.

* Single parents: Workers, employees or civil servants subject to pension insurance contributions.

Married couples: At least one spouse is a worker, employee or civil servant subject to pension insurance contributions.

** Single parents: Self-employed persons, pensioners or persons not gainfully employed.

Married couples: Each spouse is a self-employed person, pensioner or person not gainfully employed.

3. Education and socio-education

137. The accessibility of educational and socio-educational opportunities is of great importance for the growth and development of children and juveniles.

138. Child-care statistics for children under the age of six and for school-age children (outside school hours) yield the following percentages:

Places for children in day-care establishments

	Western Länder and Berlin (West) 1/	Eastern Länder and Berlin (East) 2/
Places for children under the age of 3	38 153	294 086
Supply as a percentage of potential demand (Number of places in relation to the number of children ages 1 and 2)	2.70%	77.34%
Places for children between the age of 3 and compulsory school age	1 583 622	721 262
Supply as a percentage of potential demand (Number of places in relation to the number of children between the ages of 3 and 6½)	68.99%	97.31%
Places for school-age children	128 789	555 223
Supply as a percentage of potential demand (Number of places in relation to the number of children between the ages of 6½ and 10½)	5.02%	63.24%

1/ Youth services statistics as of 31 December 1990.

2/ According to information provided by the competent ministries.

139. According to the figures compiled by the Federal Statistical Office at the beginning of the 1991/92 school year or respectively, at the beginning of the 1991/92 winter semester, 12,283,842 young Germans and 1,109,646 young aliens attended general education schools, vocational schools or higher education institutions in Germany.

140. The breakdown according to school type was as follows:

	Total	Male	Female	Germans		Aliens	
				Male	Female	Male	Female
General education schools	9 065 865	4 619 801	4 446 064	4 210 445	4 067 559	409 356	378 505
Vocational schools	2 552 436	1 393 989	1 158 447	1 273 999	1 069 519	119 990	88 928
Higher education institutions	1 775 187	1 080 080	695 107	1 008 300	654 020	71 780	41 087
Total	13 393 488	7 093 870	6 299 618	6 492 744	5 791 098	601 126	508 520

141. The breakdown according to school type (in per cent) was as follows:

	Germans			Aliens		
	Germans	Male	Female	Aliens	Male	Female
General education schools	67.4	64.8	70.2	71.0	68.1	74.4
Elementary schools	25.1	24.2	26.1	27.0	25.6	28.6
Hauptschulen 1/	9.8	10.1	9.5	21.5	21.0	22.0
Integrated classes for Hauptschule and Realschule pupils	1.1	1.2	1.1	No data available for 1991		
Upper-level secondary schools	2.9	2.8	3.0	0.0	0.0	0.0
Realschulen	7.9	7.2	8.6	6.5	5.8	7.3
Gymnasien	14.5	12.9	16.3	7.3	6.6	8.1
Integrated comprehensive schools 2/	3.2	3.2	3.2	4.0	4.0	4.1
Special schools	2.4	2.9	1.9	4.2	4.6	3.7
Evening schools and Kollegs preparing for higher education	0.4	0.4	0.5	0.5	0.5	0.5
Vocational schools	19.1	19.6	18.5	18.8	20.0	17.5
Higher education institutions	13.5	15.5	11.3	10.2	11.9	8.1
Fachhochschulen	3.1	4.1	1.9	1.8	2.5	0.9
Universities 3/	10.5	11.5	9.4	8.4	9.5	7.1

1/ Including orientation level which may or may not be tied to a particular type of school.

2/ Including Free Waldorf Schools.

3/ Including Fachhochschulen of administration.

142. The percentages of pupils attending each type of school who were girls or women were as follows:

	Germans	Aliens
	Girls and Women	Girls and Women
General education schools	49.1	48.0
Elementary schools	49.0	48.6
Hauptschulen 1/	45.6	46.9
Integrated classes for Hauptschule and Realschule pupils	45.4	No data available for 1991
Upper-level secondary schools	49.5	48.9
Realschulen	51.5	51.7
Gymnasien	52.9	51.0
Integrated comprehensive schools 2/	47.7	46.7
Special schools	36.5	40.9
Evening schools and Kollegs preparing for higher education	53.3	46.6
Vocational schools	45.6	42.6
Higher education institutions	39.3	36.4
Fachhochschulen	29.8	24.3
Universities 3/	42.1	38.9

1/ Including orientation level which may or may not be tied to a particular type of school.

2/ Including Free Waldorf Schools.

3/ Including Fachhochschulen of administration.

143. Young people in Germany largely view their future positively - and they do so while realistically assessing existing problems, as the results of a representative survey conducted by the Institute for Practice-Oriented Social Research (IPOS) in March 1993 indicate. According to this survey, 95 per cent of the juveniles in western Germany and 83 per cent of those in eastern Germany were satisfied with their lives. Sixty per cent of the juveniles interviewed thought they had greater opportunities to develop their capabilities; 26 per cent said their opportunities were unchanged, and only 13 per cent said they had fewer opportunities. When asked about the changes that had occurred since the fall of the Wall, 71 per cent of the juveniles in eastern Germany responded that the decision taken in March 1990 to structure the political system according to the western model had been correct.

144. This general confidence is all the more remarkable in view of the fact that young people at the same time declare the difficult economic and employment situation to be their greatest concern. This is particularly true

of juveniles in the new Länder, who feel that the most wrenching changes following the achievement of national unity were the upheavals in professional and working life. Far more evident initially than the opportunities afforded by the new market economy system were the devastating consequences of the old centrally planned economy, which precipitated a dramatic drop in production and employment. For these young people, fear of losing their jobs, actual loss of their jobs or the loss of parents' or neighbours' jobs were shattering experiences.

145. The exceedingly diverse measures implemented within the framework of an active employment and vocational training policy were not least designed to curb juvenile unemployment. A key aim in this atypical time of crisis marking the transition to the market economy was to avoid giving young people the impression that they were not needed to help master the economic and social challenges that lay ahead.

B. Choice of occupation

146. The Vocational Training Report containing data from the year 1991 furnishes information concerning trends in occupations chosen by the rising generation of young people. According to this report, 38.4 per cent of all male trainees in the old Länder and 40.2 per cent of all male trainees in the new Länder chose one of the 10 most popular occupations for which accredited vocational training is offered within the framework of the so-called dual system. In the old Länder, juvenile males most frequently chose the occupations automobile mechanic (7.6 per cent), electrical fitter (5.2 per cent), industrial mechanic and machine and systems technician (3.6 per cent), business specialist in wholesale and foreign trade (3.5 per cent), industrial mechanic and plant technician (3.4 per cent), joiner (3.3 per cent), banker (3.2 per cent), business specialist in industrial production and sales (3.0 per cent), business specialist in retail sales (3.0 per cent) and plumber for gas and water connections (2.7 per cent). In the new Länder, the 10 most popular occupations were industrial mechanical and plant technician (7.8 per cent), bricklayer (6.9 per cent), automobile mechanic (4.7 per cent), painter and lacquerer (3.7 per cent), joiner (3.5 per cent), electrical fitter (3.3 per cent), plumber for gas and water connections (3.0 per cent), metal-cutting mechanic and turner (3.0 per cent), electronic specialist for power plants (2.3 per cent) and electronic specialist for thermal plant equipment (2.3 per cent).

147. In 1991, 54.7 per cent of all juvenile female trainees in the old Länder and 51.3 per cent of all juvenile female trainees in the new Länder chose one of the 10 most popular occupations for which accredited vocational training is offered. In the old Länder, the following occupations were most frequently chosen by young women: physician's assistant (7.6 per cent), business specialist in retail sales (6.8 per cent), hairdresser (6.8 per cent), commercial clerk (6.4 per cent), business specialist in industrial production and sales (6.2 per cent), clerical dental assistant (5.3 per cent), banker (5.0 per cent), food trade sales specialist (3.9 per cent), business specialist in wholesale and foreign trade (3.4 per cent) and business and tax consulting services assistant (3.2 per cent). In the new Länder, juvenile females most frequently chose the occupations business specialist in retail sales (11.4 per cent), commercial clerk (7.5 per cent), business specialist in

industrial production and sales (6.3 per cent), hairdresser (4.8 per cent), cook (4.8 per cent), clerical dental assistant (3.9 per cent), restaurant specialist (3.7 per cent), banker (3.6 per cent), gardener (2.7 per cent) and saleswoman (2.6 per cent).

148. A comparison of occupation selection patterns in the new and old Länder yields a striking difference in preferences. Whereas juvenile males in the new Länder tend to choose occupations in the industrial and construction sectors, young men in the old Länder rank occupations in the business sector in the top 10 as well. In contrast to the young women in the old Länder, young women in the new Länder prefer to choose not only occupations in the business and service sectors but occupations in the restaurant and catering trade as well.

C. Federal public assistance for young people

149. According to the Basic Law and the Child and Youth Services Act, public financing of child and youth services is primarily the responsibility of the Länder and the municipalities. In specific areas of activity, however - especially at the national and international level - responsibility also lies with the Federation.

150. The aim of federal assistance to young people is to facilitate fulfilment of the tasks entailed in the provision of youth services. To this end, the Federation - within the framework of its competence - promotes measures for youth services and supports voluntary youth service organizations in so far as such measures and organizations are of supraregional importance and, due to their nature, cannot be effectively promoted or supported by one Land alone. The Federation furthermore promotes pilot projects to obtain new insights which can be applied to this sector.

151. The basic principles governing federal assistance are laid down in the Guidelines for the Federal Child and Youth Plan of 20 December 1993, which as of 1 January 1994 replaced the Guidelines for the Federal Youth Plan of 6 November 1985.

152. Target groups are: young people who have not yet attained the age of 27; parents and other persons with parental powers; people who are actively involved in the youth services sector on a volunteer, part-time or full-time basis, as well as other multipliers. These also include people of foreign origin who live in the Federal Republic of Germany.

153. The Federal Government implements the Federal Child and Youth Plan in cooperation and partnership with the Länder, the municipal authorities, and the central organizations of the voluntary youth services sector.

154. The Federal Government feels it is imperative that the Federation, within the framework of its competence, help to create comparable opportunities for young people and to establish comparable structures for youth services throughout Germany - and thus help the members of the younger generation to grow together. An efficient infrastructure for the voluntary youth services sector at the federal level (youth work of youth associations, socio-educational youth work, cultural youth work and political education, for

example) is indispensable in this context. The Federal Government believes that assistance to socially disadvantaged young people and young people who suffer from individual impairments is especially important and promotes such assistance through a variety of model programmes. The unification of Western Europe and the changes in Eastern Europe pose special challenges for international youth work.

155. The funds available under the Federal Child and Youth Plan for the year 1993 (as of 31 December 1993) totalled DM 220,778,000 and were allocated as follows:

1.	Political education outside youth associations	DM 21 552 990
2.	International youth work	DM 30 005 416
3.	Cultural education	DM 13 575 507
4.	Youth and sports	DM 1 222 000
5.	Social education	DM 19 534 270
6.	Socio-educational youth work	DM 23 136 691
7.	Work with disabled young people	DM 3 030 500
8.	Central advanced training facilities	DM 3 296 500
9.	International exchange of qualified staff in the field of youth services	DM 446 000
10.	Pilot projects and analysis of their effectiveness	DM 999 980
11.	Central youth and student associations	DM 25 971 770
12.	Central organizations of the voluntary welfare services sector	DM 4 810 000
13.	Central specialized youth service organizations	DM 5 643 815
14.	Special plan for Berlin	DM 3 149 139
15.	Other centralized individual measures	DM 3 566 688
16.	German-American youth exchange for young people in employment	DM 760 000
17.	Special measures for youth services in the new Länder	DM 26 154 934
18.	Work with girls	DM 5 389 790
19.	Information, Counselling and Advanced Training Service of the Youth Services Sector (IBFJ)	DM 1 644 450

20.	Socio-educational assistance and other forms of support	DM 3 591 789
21.	Extrafamilial and extracurricular assistance for children	DM 2 631 500
22.	KABI (concerted action programme for innovations within the framework of the Federal Youth Plan)	DM 904 840
23.	Action programme "Target Group-Oriented Prevention"	DM 20 355 970

156. In the year 1990, as a consequence of unification, additional funds were made available for the first time for special measures in the new Länder. The establishment and expansion of voluntary youth service organizations in the new Länder as well as efforts to help the younger generation in the new and old Länder grow together have taken on special importance since 1990; projects designed to further these objectives are therefore subsidized within the framework of all the programmes of the Federal Child and Youth Plan.

157. The international youth exchange helps young persons to better understand previously unfamiliar people and cultures and thus learn to live in peace with one another. Roughly 4,000 youth exchange programmes receive financial assistance from the Federal Ministry for Women and Youth every year. The changes occurring in the countries of Eastern and Central Europe opened up a new focal point for activities in the field of international youth exchanges. Bilateral government agreements providing for cooperation in the area of youth services have meanwhile been concluded with a number of new countries. Reference is made in this context to the German-Polish Youth Office. Numerous voluntary youth service organizations are supporting the efforts currently being undertaken in the countries of Central and Eastern Europe to establish non-governmental organizations devoted to youth work.

158. Since 1992, within the framework of a temporary special programme to combat aggression and violence, the Federation has cooperated with several Länder in a number of different regions to promote corresponding prevention campaigns. In addition, it is continuing the programme instituted in 1992 (APT) to establish and expand voluntary youth service organizations in the new Länder.

159. The Federal Youth Plan previously in effect was revised and renamed the "Federal Child and Youth Plan"; this revised plan went into effect in 1994.

D. Leisure time

160. An answer to the question of how much free time mothers and fathers spend with their children each day on average can be found in the results of a survey conducted by the German Youth Institute. In the fall of 1988, the Institute asked a total of 1,056 children between the ages of 8 and 12 and their parents what they did in their free time, as well as where and with whom they spent this free time. When asked what they did with their parents, the children mentioned, among other things, playing parlour games (55 per cent), going on outings (36 per cent), taking walks (19 per cent) and - far down the list - watching television (10 per cent). There were no marked differences in preferences among the various age groups. Sixty per cent of all children said they would like to spend more free time with their parents. This wish was

stronger among the 8-year-olds (68 per cent) than among the 12-year-olds (57 per cent). Information concerning the way young people spend their free time can be gleaned from the results of a survey conducted at the request of the Federal Government by the Institute for Practice-Oriented Social Research (IPOS) in February and March of 1993. Within the framework of this survey, young Germans between the ages of 14 and 27 in the eastern and western parts of the country were asked what their favourite recreational activities were and what obstacles they felt prevented them from pursuing these activities. From their responses, western Germany appears to be a recreation-oriented society with a wealth of recreational opportunities, little free time and quite a lot of work. Eastern Germany, by contrast, appears to be a work-oriented society with little work, a lot of involuntary free time and few recreational opportunities.

161. The following table (IPOS) provides more detailed information concerning the recreational activities of young people in the eastern and western parts of the country.

Recreational activities, breakdown by sex in East and West:

I will now name some different things people can do in their free time.

Please tell me, on a scale of +5 to -5, what you like to do in your free time.

"+5" means you really enjoy a given activity;

"-5" means you don't enjoy that activity at all.

You can use the numbers in between to indicate how much or how little you enjoy a given activity.

	WEST	Sex		EAST	Sex	
Average ratings	Total	Male	Female	Total	Male	Female
Number of respondents	1 015	513	500	1 190	608	582
Participate in sports	+3.0	+3.1	+2.9	+1.9	+2.2	+1.6
Attend sporting events	+0.5	+1.0	+0.0	+0.0	+0.4	-0.5
Go to the movies	+2.6	+2.2	+3.0	+1.9	+1.6	+2.2
Go to the theatre or to a concert	+1.0	+0.6	+1.5	+0.3	-0.3	+0.9
Listen to music, read	+2.5	+2.2	+2.8	+2.6	+2.3	+2.8
Go to bars	+1.4	+1.4	+1.4	-0.7	-0.3	-1.1
Go to the disco	+0.8	+0.8	+0.9	+1.6	+1.3	+1.8
Just hang around	+1.5	+1.1	+1.9	+1.4	+1.1	+1.7

II. DEVELOPMENTS IN THE YEARS 1991 TO 1994

Reform of the law of parent and child

162. Reform of the law of parent and child is essential in order to further equalize the legal status of children born in and out of wedlock, take the well-being of the child into account in a more satisfactory manner than is presently possible under existing law, comply with the orders of the Federal Constitutional Court and complete the harmonization of laws within Germany.

163. The objective of this reform - which will implement the initiatives set out in the Convention on the Rights of the Child in the sphere especially critical to the situation of the child, namely the family - is to conduct a comprehensive re-examination of the entire law of parent and child, especially the law of descent, the law on artificial insemination, the law on the statutory curatorship of the Youth Welfare Office, the law on the right of care and custody and the right of access, the law on the payment of maintenance for child care to the mother of a child born out of wedlock, the law on the payment of maintenance for children, and the law of inheritance. The reform will furthermore address the issues arising in this context pertinent to the law of guardianship, the law of adoption, the law of curatorship, the law on the rights and relationships of foster children and those persons entrusted with their care, and the law of procedure.

164. The Federal Ministry of Justice is being assisted in the preparation of this reform by an interdisciplinary working group of external experts which has already met on a number of occasions. It is hoped that this working group will conclude its deliberations early enough to make it possible to submit not merely theses but rather actual formulations for statutory provisions by the end of the legislative period - as was demanded under No. 2 of the resolution of the German Bundestag.

165. In respect of three projects, work has already progressed to the point that pertinent bills will hopefully be adopted before the end of the current legislative period. The individual projects in question are:

Draft of a bill to amend section 1631 of the Civil Code (Act on the Prohibition of Abuse);

Draft of a bill to abolish statutory curatorship of the Youth Welfare Office and reform the law of counsel (Act on Counsel);

Draft of a bill to grant children born out of wedlock equal treatment under the law of inheritance (Act on Equality of Treatment under the Law of Inheritance).

Adjustment and increase of maintenance payments for minors

166. Maintenance payments for minors are adjusted from time to time to reflect changes in economic conditions, especially during periods of rising wage and price levels. In the new Länder, this adjustment also entails gradually

increasing maintenance payments to match the standard maintenance requirement rates and the adjustment rates for maintenance payments for minors that are in effect in the old Länder.

167. The standard maintenance requirement rates for children born out of wedlock and the adjustment rates for maintenance payments for minors in the old Länder were correspondingly increased by 16 per cent, effective as of 1 July 1992, by the Fourth Ordinance on the Adjustment and Increase of Maintenance Payments for Minors of 19 March 1992 (Federal Law Gazette, Part I, p. 535). In addition, following coordination consultations sponsored by the Federal Ministry of Justice, the governments of the new Länder issued Second Ordinances of the Land Governments to Adjust and Increase Maintenance Payments for Minors.

Draft European convention on the exercise of the rights of children

168. The United Nations Convention on the Rights of the Child stipulates that children are to be given, in a manner consistent with their evolving capabilities, appropriate direction and guidance in the exercise of the rights recognized in the Convention (art. 5). The Council of Europe plans to supplement the provisions of this Convention through a European convention on the exercise of the rights of children. The Federal Government is collaborating on the preparation of a draft convention containing procedural regulations designed to help children exercise their rights more effectively. The Committee of Experts of the Council of Europe has just submitted an initial complete preliminary draft.

Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption

169. In addressing the exceedingly diverse problems associated with intercountry adoption (convergence of several cultures and legal systems, geographical distances), the Convention on the Rights of the Child only offered solutions in certain limited areas; it otherwise enjoined the States parties, in article 21 (e), to promote the objectives of article 21 of the Convention by concluding corresponding international agreements.

170. The Hague Conference on Private International Law dedicated itself to the task of responding to this entreaty. On 29 May 1993, the Seventeenth Meeting of the Conference submitted the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. The Convention provides for the institution of a system of national centres which will work together to protect children and prevent abuses in the field of international adoption. It appears that the Convention may even be initialled during the current legislative period.

Stiffening of the provisions of criminal law against child pornography

171. To supplement the legal provisions heretofore in effect, which in practice had proved to be insufficiently effective, the 27th Act to Amend the Criminal Law - Child Pornography - was adopted on 23 July 1993 (Federal Law Gazette, Part I, p. 1346). This Act, which entered into force on 1 September 1993, inter alia increased the statutory range of punishment for

dissemination of pornographic materials featuring children and in particular made possession of pornographic materials featuring children - which had previously been exempt from punishment - a punishable offence.

172. The purpose of this measure was to also render the consumer of child pornography, who by virtue of his demand ultimately creates the market for such products, liable to criminal prosecution in cases - especially those involving videos, for instance - in which children have actually been sexually abused. This should help to dry up the market for such products.

173. In addition, the Land governments have taken up a suggestion of the Federal Government to make dissemination of child pornography - as well as dissemination of so-called "hard-core" pornography in general - subject to the longer statutes of limitations stipulated in the Criminal Code instead of the briefer statutes of limitations stipulated in the press laws of the Länder.

Measures to combat sex tourism involving children

174. Under the law heretofore in effect, German tourists who abused children abroad could only then be punished in Germany if the children in question were Germans or if the act in question was also a criminal offence in the foreign country in which it was committed. These provisions consequently did not cover acts detrimental to foreign children committed by Germans abroad if the act in question was not a criminal offence under the law of the country in which it was committed - due to lower age limits set by child protection laws, for example.

175. In order to close this loophole for the protection and benefit of the children at risk, the 27th Act to Amend the Criminal Law of 23 July 1993 expanded the scope of application of section 5, No. 8 of the Criminal Code - which stipulates that sexual abuse of children is a criminal offence - to encompass acts committed against foreign children by Germans abroad.

176. As a first step toward practical implementation of these provisions, the Federal Foreign Office - at the suggestion of the Federal Minister of Justice - made démarches in the autumn of 1993 to those countries which are the primary destinations for sex tourism involving children in order to inform them of the amendment of German criminal law and its implications. At the same time, the Governments of the countries concerned were asked to assist the German investigating authorities in implementing the amended law. The altogether positive initial reactions to these démarches and the discovery of new sex tourism destinations have led the Federal Government to begin preparations for expanding the scope of this campaign to encompass additional countries.

Statutes of limitations for sexual offences

177. Under the law currently in effect, the statutes of limitations governing criminal prosecution of sexual offences committed against children have often already expired before such offences are reported. One reason is that many of the victims of such offences, which are frequently committed within the victim's family environment, are not in a position to assess the magnitude of the wrong committed against them and report it until they have become adults

and are no longer under the influence of the perpetrator. Plans are therefore under way to sufficiently extend the statutes of limitations for prosecution of certain grievous sexual crimes committed against children to make it possible for the victims to also press charges once they have attained majority.

Measures to combat traffic in children

178. The uncovering of a number of spectacular cases involving traffic in children (in Berlin in October 1991, for instance) prompted deliberations aiming to expand the scope of application of the provision of the Criminal Code governing the abduction of children (sect. 235 of the Criminal Code) - which only inadequately covers the abduction of extremely young children - and especially, in view of the emergence of profit-oriented traffic in children, to define and incorporate into this provision a new set of elements constituting a crime. These deliberations will be influenced by the results of a criminological investigation ordered by the Federal Ministry of Justice.

Uniform protection of juveniles under the provisions of criminal law governing sexual offences

179. After the achievement of political and national unity, protection of juveniles in respect of sexual offences was governed by different criminal law provisions in the eastern and western parts of Germany. In the old Länder, sections 175 and 182 of the Criminal Code applied, whereas in the new Länder, on the basis of the Unification Treaty, section 149 of the Criminal Code of the German Democratic Republic continued to be in effect. The applicability of different criminal law provisions within the Federal Republic of Germany governing the protection of juveniles in respect of sexual offences could only be tolerated for a transitional period - also in view of the principle of equality before the law laid down in article 3 of the Basic Law.

180. Through the 29th Act to Amend the Criminal Law of 31 May 1994 (Federal Law Gazette, Part I, p. 1,168), which entered into force on 11 June 1994, the aforementioned protective provisions were replaced by a uniform protective provision that protects male and female juveniles under the age of 16 from sexual abuse, irrespective of the sex of the perpetrator or the victim. This provision at the same time serves to help dismantle prejudice and social discrimination against homosexuals. Criminal liability is limited to those cases in which serious detrimental effects on the sexual development of the juvenile are to be feared, namely cases involving the exploitation of a state of duress for sexual purposes, the promising or granting of payment or comparable advantages in return for sexual favours, or the exploitation of the victim's incapacity to take responsibility for his or her own sexual acts. Anyone directing the victim to perform sexual acts with third persons is also subject to criminal liability because the victim is entitled to protection in such cases as well.

Reform of the entire law on juvenile delinquency

181. The necessity of further reform of the law on juvenile delinquency was already acknowledged by the Federal Government in the context of the entry

into force on 1 December 1990 of the First Act to Amend the Youth Courts Act; it was also the subject of a resolution adopted by the German Bundestag on 20 June 1990.

182. In the meantime, deliberations pertaining to the scope and content of a Second Act to Amend the Youth Courts Act have clearly revealed that the entire law on juvenile delinquency is in need of comprehensive re-examination and revision. Specific areas requiring attention include a redefinition of the balance between re-education measures and disciplinary measures as well as a reassessment of the preconditions for imposition of youth detention. The necessity of developing concepts for reducing and appropriately handling youth violence will also figure importantly in this reform, especially in view of the new quality of extremist acts of violence committed by young people; the question of whether the resources of criminal law are sufficient, however, is likely to be of far less importance in this context than the question of what initiatives and action can and should be undertaken within the framework of social and youth policy. The role of the defence counsel in youth-court proceedings, the preliminary investigation in youth-court cases, as well as the appellate proceedings permissible in such cases are likewise in need of re-examination. Reform deliberations should also address the peculiarities of criminal law relating to youth offenders and their implications for the training and advanced training of judges, public prosecutors and attorneys. Attention should be given to the interests of young girls and women in cases involving imposition of sanctions by youth-court judges and their implementation. The limits on both the age of criminal responsibility, and the age of punishability should be reconsidered, as should the decriminalization of minor offences and typically youthful offences.

Protection of victims in criminal proceedings

183. Children who are victims of violence and sexual offences committed within the family sphere can suffer additional mental anguish as a result of their - usually repeated - interrogation in criminal proceedings against close family members, for example if they feel burdened by the responsibility of perhaps destroying the family through their testimony.

184. A number of legal policy initiatives and proposals addressing this problem have already been put forward. Some of them were included in the final expertise of the "Commission on Violence" (1990) established by the Federal Government; others stem from the Working Group on Youth Services or the Conference of Ministers and Senators of Justice of the Länder or, respectively, the Conference of Ministers and Senators for Youth Affairs of the Länder. These deliberations focus on proposals designed to expand the range of possibilities for dismissing criminal proceedings and initiating appropriate socio-educational or family therapy measures instead.

185. The goals to which these proposals aspire are admirable. A number of questions concerning the type of measures to be taken are as yet unresolved. The Federal Ministry of Justice has assigned a research project to the University of Berlin to go through and screen the relevant literature. In addition, the Federal Ministry of Justice is considering collaborating with the Ministry for Family Affairs and Senior Citizens within the framework of a research project to discuss in depth the questions that remain unresolved.

186. For this reason, the time-frame for potential institution of legislative measures is still undetermined.

Reform of the execution of sentences passed by youth courts

187. Up until now there has been no comprehensive statutory regulatory framework governing the execution of sentences passed by youth courts, the execution of prison sentences in reformatories and the execution of pretrial detention of juveniles and adolescents.

188. The objectives - especially re-education - which are specifically pursued in cases involving young people and are linked to the execution of the above-mentioned measures on young prisoners cannot be optimally attained in the absence of such a statutory framework. The same is also true, for example, of the specifically youth-related criteria to be stressed in the structuring of execution of pretrial detention of juveniles.

189. Plans are therefore under way to institute an independent statutory framework in the form of a special act on the execution of sentences passed by youth courts; incorporated into this act will be provisions governing the structuring of execution of pretrial detention of juveniles.

Scientific research in the field of youth sports

190. Numerous research projects designed to promote youth sports are being pursued in collaboration with the Federal Institute of Sport Science. These projects address a wide variety of topics; examples include the search for and promotion of athletic talent within the framework of special advanced sports instruction in schools for pupils between the ages of 8 and 14, the drafting of proposals for educationally oriented youth work in sports clubs, and an analysis of the problem of young non-athletes' abstinence from sports.

Unemployment compensation and care of a sick child

191. It was possible to expand the scope of the entitlement of an unemployed person to extended payment of unemployment compensation in the event that he or she must provide supervision, care or nursing care for a sick child and the need for such supervision or care is substantiated by a medical certificate. This entitlement now covers 10 days instead of 5 - 20 days in the case of single parents who are unemployed - per child per calendar year if no other person living in the household is in a position to perform this care-giving function and if the child has not yet attained the age of 12 (the previous age limit was 8). The maximum length of time to which this entitlement applies is 25 days - 50 days in the case of single parents who are unemployed - per calendar year. This amendment of section 105b, subsection 1, sentences 2 and 3, of the Employment Promotion Act (AFG) to conform to the provisions of section 45 of Part Five of the Social Code was undertaken through the Second Act to Amend Book Five of the Social Code of 20 December 1991 (Federal Law Gazette, Part I, p. 2,325) and entered into force on 1 January 1992.

Language courses for young aliens

192. Within the framework of an institutional promotion campaign currently scheduled to continue until 1995, the Federal Government has allocated federal funds to subsidize general language courses which are primarily intended to benefit young aliens who are at least 15 years old (as well as employed aliens). The purpose of these courses, which are organized by the "Language Association German for Foreign Workers" in Minz and are presently conducted by some 550 groups or organizations, is to correct language deficiencies and thus improve aliens' access to the labour market. In 1992, 81,300 persons were enrolled in these courses; approximately one third of the participants were under 20 years of age. In addition to the general language courses, which are largely held in the evenings, intensive language courses providing twice as many hours of instruction are available as well. These intensive courses are generally offered in the form of full-time, day-time instruction. In 1992, roughly 40,500 persons attended such courses, approximately one third of whom were under the age of 20.

Measure "Vocational Preparation in Boarding Schools"

193. Some young aliens are not adequately served by the available statutory opportunities for vocational preparation and promotion of vocational training. These young people are eligible for special assistance provided within the framework of the measure "Vocational Preparation in Boarding Schools". In addition to providing vocational preparation, this measure above all offers young aliens the opportunity to complete unfinished coursework for school-leaving certificates - especially for the Hauptschule certificate, which constitutes the basis for commencing vocational training. This measure is specifically designed to help young aliens who are no longer of compulsory school age and who are not yet eligible for the normal assistance furnished by the Federal Institute for Employment. Due to limited capacity, the number of participants in the boarding school courses was confined to 280 young people in the academic year 1991/92.

Bi-national vocational training

194. On the basis of the EC Regulation on the Tasks of the Structural Funds and their Effectiveness of 24 June 1988, projects have been developed which afford young aliens who are in possession of school-leaving certificates and who are enrolled in a vocational training programme in Germany (especially for business-related occupations and occupations in the electrical and metal-working industries) accompanying measures facilitating their professional integration. These projects include instruction in the specialized vocabulary of the given occupation in the young person's national language, for example, as well as a five-week period of practical training in his or her country of origin. Such bi-national projects have been conducted with Greece since 1988 and with Spain since 1991. Projects involving Italian and Turkish young people were instituted in 1993. A project with Portugal is scheduled to start in 1994. The duration of these projects is generally three to four years.

Integration of alien women and girls

195. The Federal Government is actively involved in courses for women and pilot projects which are being conducted throughout the country to both combat the distinctive disadvantages suffered by alien women and girls and facilitate their integration especially by helping them to learn the German language and encouraging them to seek vocational training. Thus far, well over 100,000 alien women and girls, most of them Turkish, have participated in these courses for women - which have been offered since 1981 - and in the pilot projects which started in 1990.

Concepts for policies on children and juveniles in the new Länder

196. Concepts for policies on children are largely developed and implemented in the context of the structural framework for youth services. While many forms of assistance were admittedly available to children and juveniles in the new Länder, the efficiency of the youth welfare offices - which also require functional youth services committees - was extremely limited. Furthermore, virtually no assistance was provided to young people by voluntary youth service organizations, which make a key contribution to plurality and diversity of assistance. The Federation, the Länder and the municipalities, as well as individual voluntary youth service organizations, have made a tremendous effort to establish the structural framework required for the provision of youth services in the new Länder. Primary aims of these endeavours have been not only to ensure a sufficient range of services but also to provide advanced training for specialized staff and help them acquire the qualifications necessary to perform their work. Attention has been focused, inter alia, on the planning of youth services, which also includes development of a concept for policy on children. After three years of work, despite difficult material conditions, the municipalities in particular - who bear chief responsibility for youth services - have largely succeeded in establishing a functional structural framework for the provision of youth services. It should be stressed in this context that it was possible to maintain a sufficient supply of day-care places for children in the new Länder.

Campaign "No Violence Against Children"

197. The education and information campaign "No Violence Against Children", which the Federal Ministry for Women and Youth subsidized through allocations of DM 1 million per year in 1992 and 1993 despite the difficult budgetary situation, is intended as a preventive measure - since sanctions under criminal law have proved insufficient - to effectively combat the numerous and diverse forms of violence against children. Its primary themes are child abuse and sexual abuse of children. The campaign has been very well received by both the media and the public at large and will probably be continued.

Day-care establishments in the new Länder

198. The former German Democratic Republic (GDR) had a complete network of day-care establishments for children which were operated either by the State or by factories and businesses. These establishments were open all day long,

so that both parents could work outside the home. The binding objectives and duties of these child-care establishments were defined by the State and were enforced and implemented through uniform administrative structures.

199. The process of restructuring all aspects of social and political life which began after the accession of the GDR to the Federal Republic of Germany affected day-care establishments for children as well. From the very beginning, however, there was a consensus that the network of day-care establishments should be preserved. Due to an existing oversupply of places and a decline in the number of children, it was nevertheless necessary to reduce the number of available places and dismiss many day-care attendants and teachers.

200. These quantitative changes were accompanied by changes in structure and substance as well. According to the law in effect for the entire nation, the Länder and the municipal authorities are responsible for day-care establishments. This caused major readjustments at the local level, since all the parties involved - day-care attendants and teachers, operators of day-care establishments, advisers and consultants, mayors and not least parents themselves - were used to being given directions by central authorities and first have to learn how to work together as partners. The changes in substance were above all the consequence of an altered perception of what kind of person a child should be. In the former GDR, the work of the staff in day-care establishments for children was directed towards developing the "socialist personality" with its attendant attributes and ideological orientation. Today, the day-care attendants and teachers who were trained in the former GDR strive to promote the development of the child into a self-reliant individual who can function as a member of the community. To encourage this process, the Federal Government has since 1993 subsidized a pilot project in 12 different locations in the new Länder which is designed to further develop existing teaching skills and experience.

201. The transfer of responsibility for day-care establishments for children from the State to the municipalities has given rise to further problems; as a result, the municipalities have had to assume considerable financial burdens. Parents in the new Länder - like parents in the old Länder - must now pay part of the costs entailed in the care and education of their children in day-care establishments.

202. On the whole, it appears that the readjustments have been completed and that the day-care establishments for children in the new Länder continue to enjoy social acceptance and support. The legal right to a place in a kindergarten, for instance, has already largely been implemented in this part of the nation.

Draft of a First Act to Amend Book Eight of the Social Code (Act to Amend the Child and Youth Services Act)

203. The draft of the amending Act reflects initial practical experience following the entry into force on 1 January 1991 of the new Child and Youth Services Act. A primary objective of the amendment is to further improve the procedural provisions of the Child and Youth Services Act. In addition, the amending Act provides for a more flexible arrangement governing utilization of

qualified Youth Welfare Office Staff for recording and certification duties. Finally, the amending Act also establishes the basis for better cooperation between the youth welfare offices and both the youth courts and juvenile enforcement agencies.

Legal right to a kindergarten place

204. The Act on Assistance to Pregnant Women and Families ensures an improved supply of places in day-care establishments for children. As of 1 January 1996, children will have a legal right to a place in a kindergarten from the time they attain the age of three until they begin school.

205. For the old Länder, this new legal provision means that roughly 600,000 new places must be created in the kindergarten sector alone. The municipal authorities, which are responsible for establishing and operating day-care establishments for children, are making every effort to meet this deadline; both time and money, however, are major problems.

Integration assistance for resettler families and their children

206. This project is based on an Israeli programme developed for Jewish immigrants and their children between the ages of three and five. Known as "HIPPY" (Home Integrated Programme for Preschool Youngsters), the programme is above all designed to improve the language skills of the mothers and their children. The programme is structured to help the mothers help themselves: through the instruction they receive, they are able to improve both their own language skills and those of their children.

207. A further objective is to assist resettler families in establishing contact with neighbours and dealing with public authorities.

"Mother and Child" Foundation

208. The sphere of application of the Act establishing a foundation "Mother and Child - Protection of Unborn Life" was not enlarged through the Unification Treaty to include the territory of the former GDR; instead, a special assistance fund for pregnant women in distress was established for that territory for a transitional period which ended on 31 December 1992. As of 1 January 1993, the sphere of application of the aforementioned Act was enlarged to include the new Länder. All guidance centres normally sought out by pregnant women have been drawn into the network of counselling services helping women in distress to obtain the assistance they need. The foundation's funds were increased by DM 40 million.

Improvements in the law on advance maintenance payments

209. The Act on Advance Maintenance Payments was not introduced in the territory of the former GDR through the Unification Treaty; instead, the Maintenance Security Ordinance of the former GDR continued to be in effect. There was consequently an urgent need to establish legal uniformity, above all for the following reasons: firstly, from the standpoint of family policy it was desirable to further improve the regulations already in effect in the old Länder and, secondly, there were tremendous differences between the two sets

of regulations in respect of age limits and scope of benefits. Legal uniformity was finally established as of 1 January 1992 through the act of 12 December 1991 (Federal Law Gazette, Part I, p. 2322). The benefits that a single parent (or other person with parental powers) may demand under the amended law were substantially increased as of 1 January 1993: advance maintenance payments could thereafter be claimed for children up to the age of 12 (the previous age limit was 6); in addition, the maximum length of time for drawing such payments was increased from 36 months to 72 months.

Further improvement of the equalization of family burdens regime, the child-raising benefit and child-raising leave

210. According to the most recent ruling of the Federal Constitutional Court concerning equalization of family burdens, an amount of income equivalent to the subsistence minimum of a child must be exempted from income tax. Within the framework of the existing dual system, this is achieved by the granting of a child allowance for income tax purposes and by the payment of a child benefit. Through the 1992 Taxation Amendment Act, the child allowance was increased from DM 3,024 to DM 4,104, and the child benefit was increased from DM 50 to DM 70 for the first child. The supplementary child benefit for entitled persons who are either unable or only partially able to benefit from the child allowance was increased as of 1 January 1992 from up to DM 48 per child per month to up to DM 65 per child per month. The child benefit for the second child had already been increased as of 1 July 1990 - irrespective of income - from DM 100 to DM 130 per month.

211. In addition, the Second Act to Amend the Federal Act on the Child-Raising Benefit extended the time-frame for payment of the child-raising benefit - which amounts to DM 600 per month and could previously be paid until the child attained the age of 18 months - to 24 months for children who were born on or after 1 January 1993. Under the provisions of the same act, the time-frame for the option of taking child-raising leave with guaranteed protection against dismissal was extended by 1½ years for children born on or after 1 January 1992 and now ends when the child turns three.

212. In order to improve the financial situation of single parents, a maximum allowable deduction as extraordinary expense of DM 4,000 for the first child and DM 2,000 for each further child was instituted as early as 1984 to take due account of the child-care expenses incurred by single-parent families. A standard amount of DM 480 per child per year may be deducted without presentation of proof of actual costs. In addition, a single parent who received a child allowance for at least one child registered as living in his or her home within the territory of Germany also receives a household allowance; as of 1990, this household allowance was increased to DM 5,616 per year.

Care for a sick child at home

213. On 1 January 1992, an amended version of section 45 of Part Five of the Social Code entered into force which gave parents the right to take leave from work in order to care for a sick child. This leave is limited to 10 working days per calendar year per parent or 20 working days per calendar year for

single parents. In the case of families with several children, leave is limited to a total of 25 working days per parent or 50 working days for single parents per year.

214. At the same time, the age limits pertinent to the care of sick children and the provision of a housekeeper (if the mother is in the hospital, for example) were raised from 8 years to 12 years (sects. 38 and 45 of Part Five of the Social Code).

215. These improved benefits apply to all employed persons who are insured under the statutory health insurance scheme, provided that the child is covered by statutory health insurance as well. In cases involving employed persons covered by private health insurance or civil servants, the pertinent labour law or civil service regulations are applicable.

Amendment of the Radiation Protection Ordinance

216. The regulations for the protection of young people (in regard to dose limits and restrictions on activities, for instance) under German radiation protection law conform to the pertinent EU Directives (EURATOM Basic Standards for Radiation Protection) and will be adjusted as soon as the current modification of the EURATOM guidelines enters into force. This will probably occur during the present legislative period.

Education to promote equality of rights

217. The Federal Government believes that political measures to combat violence against girls are only meaningful within the framework of a comprehensive policy to promote equality of opportunity for girls and women.

218. It therefore considers the encouragement of girls and women in all areas of the educational system to be one of its primary tasks. Although girls and women are now also equally represented in the more highly qualified courses of education in general education schools, they continue to be affected by sex-discrimination mechanisms persisting in individual structures, subject-matter and teaching methods, as well as in certain ways of learning and forms of interaction in all areas of education and vocational training. The current objective of the Federal Government's educational policy measures is to uncover and eliminate these mechanisms.

219. The work of the Commission for Educational Planning and the Promotion of Research of the Federation and the Länder (BLK) "Girls and Women in the Educational System" now consequently focuses on comprehensive measures to eliminate sex-discrimination mechanisms and the frequently attendant outright or latent violence against girls in school. Priority attention and support is accordingly to be given to measures with the following objectives:

(a) Recognition and alteration of sexually discriminatory forms of interaction on the part of teachers, as well as the development of practice-oriented proposals for advanced training of teachers and for work with parents;

(b) Elimination of restrictive or discriminatory traditional roles in subject-matter, teaching methods and teaching materials;

(c) Greater acknowledgement of girls' interests, orientations and ways of learning in subject-matter and teaching methods;

(d) Promotion of greater self-confidence and self-determination on the part of girls;

(e) Encouragement of a wider range of interests on the part of boys, especially in regard to a dual orientation toward professional work and housework.

These concepts are directed towards teachers as well as towards boys and girls; greater parental involvement is also desirable.

220. A pilot project currently under way in North Rhine-Westphalia also offers courses in self-defence for girls.

221. Since February 1992, a pilot project on prevention of sexual violence in schools has been pursued in Schleswig-Holstein. The goal of this pilot project is to better prepare teachers for handling this very complex problem by heightening their awareness of its presence, adding to their knowledge and broadening their range of pertinent teaching skills and practical tools.

222. At the conclusion of a Berlin pilot project conducted within the framework of the EC action research programme to incorporate equality of opportunity into the training and advanced training of teachers, a conference of specialists was held in Berlin in February 1992 at which innovative school projects from the entire Federal Republic of Germany aiming to reduce sexism and violence in schools were presented and discussed.

Annex I

LIST OF ABBREVIATIONS

AFG	=	Arbeitsförderungsgesetz
AFT	=	Aus- und Aufbau von Trägern der freien Jugendhilfe
BeurkG	=	Beurkundungsgesetz
BfA	=	Bundesanstalt für Arbeit
BGB	=	Bürgerliches Gesetzbuch
BGBl	=	Bundesgesetzblatt
BLK	=	Bund-Länder-Kommission für Bildungsplanung und Forschungsförderung
BSHG	=	Bundessozialhilfegesetz
BVerfGE	=	Bundesverfassungsgericht
EU	=	European Union
EURATOM	=	European Atomic Energy Community
FGG	=	Gesetz über die Angelegenheiten der freiwilligen Gerichtsbarkeit
GDR	=	German Democratic Republic
GG	=	Grundgesetz
IBFJ	=	Informations-, Beratungs- und Fortbildungsdienst der Jugendhilfe
IPOS	=	Institut für praxisorientierte Sozialforschung
JGG	=	Jugendgerichtsgesetz
KABI	=	Konzertierte Aktion Bundesjugendplan Innovationen
KJHG	=	Kinder- und Jugendhilfegesetz
OEG	=	Opferentschädigungsgesetz
PStG	=	Personenstandgesetz
RelKErzG	=	Gesetz über die religiöse Kindererziehung
RGBl	=	Reichsgesetzblatt
SGB	=	Sozialgesetzbuch
SLV	=	Soldatenlaufbahnverordnung
StGB	=	Strafgesetzbuch
StGB-DDR	=	Strafgesetzbuch-Deutsche Demokratische Republik
StPO	=	Strafprozeßordnung
VereinsG	=	Vereinsgesetz
VersammlG	=	Versammlungsgesetz
ZPO	=	Zivilprozeßordnung

Annex II

NOTIFICATION OF THE ENTRY INTO FORCE OF THE CONVENTION ON THE RIGHTS OF THE CHILD OF 10 JULY 1992

In accordance with article 2, paragraph 2 of the Act of 17 February 1992 on the Convention on the Rights of the Child of 20 November 1989 (Federal Law Gazette 1992, Part II, p. 121), notification is hereby given that the Convention, in accordance with its article 49, paragraph 2, entered into force for Germany on 5 April 1992; the instrument of ratification was deposited on 6 March 1992 with the Secretary-General of the United Nations.**

At the time the instrument of ratification was deposited, Germany declared the following:

I.

The Government of the Federal Republic of Germany declares that it welcomes the Convention on the Rights of the Child as a milestone in the development of international law and that it will take the opportunity afforded by the ratification of the Convention to initiate reforms in its domestic legislation that are in keeping with the spirit of the Convention and that it considers appropriate, in line with article 3 (2) of the Convention, to ensure the well-being of the child. The planned measures include, in particular, a revision of the law on parental custody in respect of children whose parents have not married, are permanently living apart while still married, or are divorced. The principal aim will be to improve the conditions for the exercise of parental custody by both parents in such cases as well. The Federal Republic of Germany also declares that domestically the Convention does not apply directly. It establishes State obligations under international law that the Federal Republic of Germany fulfils in accordance with its national law, which conforms with the Convention.

II.

The Government of the Federal Republic of Germany is of the opinion that article 18 (1) of the Convention does not imply that by virtue of the entry into force of this provision parental custody, automatically and without taking into account the best interests of the respective child, applies to both parents even in the case of children whose parents have not married, are permanently living apart while still married, or are divorced. Such an interpretation would be incompatible with article 3 (1) of the Convention. The situation must be examined on a case-by-case basis, particularly where the parents cannot agree on the joint exercise of custody.

** On 2 October 1990, the former German Democratic Republic had deposited its instrument of ratification for this Convention; as a result of the accession of the German Democratic Republic to the Federal Republic of Germany, which became effective on 3 October 1990, the provisions of article 49, paragraph 2, of the Convention, pursuant to which the Convention was to have entered into force for the former German Democratic Republic on 1 November 1990, no longer became operative.

The Federal Republic of Germany therefore declares that the provisions of the Convention are also without prejudice to the provisions of national law concerning:

(a) legal representation of minors in the exercise of their rights;

(b) rights of custody and access in respect of children born in wedlock;

(c) circumstances under family and inheritance law of children born out of wedlock:

this applies irrespective of the planned revision of the law on parental custody, the details of which remain within the discretion of the national legislator.

III.

In accordance with the reservations made by it with respect to the parallel guarantees of the International Covenant on Civil and Political Rights, the Federal Republic of Germany declares in respect of article 40 (2) (b) (ii) and (v) of the Convention that these provisions shall be applied in such a way that, in the case of minor infringement of the penal law, there shall not in each and every case exist

(a) a right to have "legal or other appropriate assistance" in the preparation and presentation of the defence, and/or

(b) an obligation to have a sentence not calling for imprisonment reviewed by a "higher competent ... authority or judicial body".

IV.

In addition, the Federal Republic of Germany confirms the declaration it made in Geneva on 23 February 1989:

Nothing in the Convention may be interpreted as implying that unlawful entry by an alien into the territory of the Federal Republic of Germany or his unlawful stay there is permitted: nor may any provision be interpreted to mean that it restricts the right of the Federal Republic of Germany to pass laws and regulations concerning the entry of aliens and the conditions of their stay or to make a distinction between nationals and aliens.

V.

The Government of the Federal Republic of Germany regrets the fact that under article 38 (2) of the Convention even 15-year-olds may take a part in hostilities as soldiers, because this age limit is incompatible with the consideration of a child's best interest (art. 3 (1) of the Convention). It declares that it will not make any use of the possibility afforded by the Convention of fixing this age limit at 15 years.